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EUROPE 1992

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

MARCH 20, 1989

Serial 101-4

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EUROPE 1992

MONDAY, MARCH 20, 1989

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The subcommittee met, pursuant to call, at 1:30 p.m., in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press releases announcing the hearing follow:]

FOR IMMEDIATE RELEASE
WEDNESDAY, MARCH 8, 1989

SUBCOMMITTEE ON TRADE #5
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A HEARING ON "EUROPE 1992"

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced a public hearing on the European Community (EC) program to complete its internal market consolidation by the end of 1992. This hearing, the first in a series of Subcommittee hearings to be held on "Europe 1992," will be held on Monday, March 20, 1989, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 11:00 a.m.

In 1985, European leaders launched a major drive to complete the establishment of a single European common market by the end of 1992. Since then, the EC has been considering and acting on approximately 300 legislative proposals which provide the blueprint for the 1992 program.

The Subcommittee on Trade will focus these hearings on specific directives and regulations that may affect U.S. access to the EC market and the operations of U.S. companies in Europe. In addition, the Subcommittee is interested in the relationship between economic policy issues and developments in creating a single Europe, and progress in the Uruguay Round of multilateral trade negotiations.

Aspects of the EC's program that are of particular interest are proposed changes in border measures such as quantitative restrictions, rules of origin, local content requirements, and internal customs procedures; reciprocity and national treatment policies; tax policies; product standards and health and sanitary controls; government procurement practices; intellectual property right protection; merger and acquisition policies; as well as developments and effects in major sectors such as telecommunications, automobiles, and services.

In announcing this hearing, Chairman Gibbons stated:

> "I welcome the EC's desire to eliminate nontariff trade barriers within Europe. The establishment of a single large market of 320 million consumers offers exciting prospects of new and expanded opportunities as well as challenges to U.S. businesses.
>
> "Both the establishment of and the process of establishing a single European market, however, raise important issues for U.S. trade policy. It is vitally important, therefore, for the American public and its policymakers to be well-informed of the decisions that are now being made in Europe and their implications for U.S. interests. This hearing is the first in a series of hearings which the Subcommittee on Trade will hold to educate ourselves and the American public on the EC 1992 program."

The Subcommittee is interested in hearing from the Administration and the private sector on efforts being undertaken to identify, assess, and react to developments and policy issues in the EC internal market consolidation.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Requests to be heard must be made by telephone to Harriett Lawler or Diane Kirkland [telephone (202) 225-1721] by close of business Tuesday, March 14, 1989. The telephone request should be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee office [(202) 225-3943]. All requests should clearly specify the subject matter or issue to be addressed.

Due to the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to appear at the March 20 hearing, and may defer some requests for scheduling at the next hearing in the series. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are requested to briefly summarize their written statements. The full statement will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 150 copies of their prepared statement to the Subcommittee on Trade office, room 1136 Longworth House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Persons submitting a written statement in lieu of a personal appearance should submit six (6) copies of their statement by the close of business Monday, March 27, 1989, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing a written statement for the record of the printed hearing wish to have their statement distributed to the press and the interested public at the hearing, they may provide 75 additional copies for this purpose to the Subcommittee office, room 1136 Longworth House Office Building, prior to the start of the public hearing.

SEE FORMATTING REQUIREMENTS BELOW:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

* * * * * * * * * * *

*** CHANGE IN TIME ***

FOR IMMEDIATE RELEASE
THURSDAY, MARCH 16, 1989

SUBCOMMITTEE ON TRADE #5-REVISED
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN,
SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES
CHANGE IN TIME FOR THE HEARING ON
"EUROPE 1992"

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the public hearing to be held on Monday, March 20, 1989, on the European Community (EC) program to complete its internal market consolidation by the end of 1992 will begin at 1:30 p.m. instead of 11:00 a.m. as previously announced. All other details remain the same.

* * * * * * * * * *

Chairman GIBBONS. This is a meeting of the Trade Subcommittee of the Ways and Means Committee. Today we begin a series of hearings on the European program to complete its internal market by the year 1992.

I have said before and I say again, I think the 1992 program by the European Community is one of the most important, peaceful things that has happened in Europe in the last 1,000 years.

Along with the Uruguay Round of GATT negotiations, the European 1992 program has the potential for doing more to promote world economic growth and peace in the coming decade than any other trade policy or program.

If the EC proceeds with its program in a manner which ensures fairness and nondiscrimination, then both the United States and the European Community will gain. On the other hand, if it is implemented in a manner which restricts United States access or obstructs achievement of meaningful GATT reforms in the Uruguay Round, then we shall have concern for their actions.

Since the EC Commission's publication of its White Paper in 1985, almost half of the 279 directives have been adopted by the EC Council. Another third are in the process of being adopted. The scope and content of these directives and the implementing regulations determine the impact which the single market exercise will have upon U.S. business and U.S. interests.

It is therefore imperative that the American public and its policymakers have an accurate understanding of these directives.

Today's hearing is the first of a series of hearings which the Trade Subcommittee will hold to educate ourselves and the public about "Europe 1992."

Today we will hear from the Assistant U.S. Trade Representative for Europe and the Mediterranean, Mr. Jim Murphy, as well as private-sector representatives.

We will continue these hearings at a later date.

Mr. Murphy, we welcome you. Your statement will be included in the record. You may proceed as you wish.

STATEMENT OF JAMES M. MURPHY, JR., ASSISTANT U.S. TRADE REPRESENTATIVE FOR EUROPE AND THE MEDITERRANEAN, ACCOMPANIED BY ANDREW STOLER, DEPUTY

Mr. MURPHY. Thank you, Mr. Chairman.

Let me begin by introducing the gentleman next to me, Mr. Andy Stoler, my deputy. I will explain in my prepared comments Andy's role in our EC 1992 activities.

I appreciate your putting my statement into the record. And I will proceed with a few oral statements.

The total two-way trade between the United States and EC in 1988 was $161 billion. That is growing fast. The EC is the largest trading partner of the United States. The EC took 20 percent of U.S. exports in 1988. Similarly, the U.S. took 22 percent of the EC's exports. U.S. direct investment at the end of 1987, the most recent number we have, was $123 billion.

EC direct investment in the United States was $158 billion, more than half of the total foreign direct investment in the United

States which at the time was $262 billion. Clearly, the U.S.-EC trade relationship is a large and important one for both partners.

For most of the postwar period we have enjoyed a surplus in our merchandise trade balance with the Community. It was not until 1984 that we had our first trade deficit. The U.S. trade deficit with the EC peaked in 1986 at $27 billion. In 1988 it was $9.1 billion.

The primary cause of that adjustment was the adjustment in the exchange rate. I think this demonstrates clearly that in the U.S.-EC trading relationship market forces have a bigger impact than in the relationship between this country and some others that we could easily think of. I think that is important to note.

One little piece of good news I would note. The numbers came out last week reporting the January trade data. The United States had a $346 million trade surplus with the EC, the first trade surplus we have had since September of 1983. This reflects higher United States export sales to the United Kingdom and France. I wouldn't want to make too much of one month's numbers, but it shows it can happen.

Given the importance of the EC to us in both trade and investment, it is natural that we are concerned when the EC undertakes dramatic changes of their economic landscape. Clearly, EC 1992 is that.

EC 1992 is the removal of internal barriers to the free movement of goods, services, capital and people between the 12 member states. In accomplishing this, the EC will revolutionize the trade and investment environment in the EC.

I think it is useful for us to recall that during the time that we were negotiating our free trade area agreement with Canada, there was considerable unease on the part of our European friends.

At the end of the day, the United States-Canada Free Trade Agreement created no new barriers to trade or investment, a point on which we and Canada take pride. We are concerned as the EC undertakes major changes in their economic landscape.

If the completion of the internal market is accomplished in trade liberlizing, competitive, and nondiscriminatory fashion, then the United States as well as the EC will benefit. For this reason the United States has been supporting the EC internal market program. We are well advised, however, to be concerned and to monitor closely what they are doing and how they are doing it.

There is no question that these major changes threaten existing economic interests in the EC and that this in turn generates pressure for protection in certain sectors. To the extent the EC succumbs to these pressures, we must be prepared to respond firmly.

I want to assure this committee that we are prepared to do so. But it is also true that the vast majority of the U.S. business community would agree that 1992 will be beneficial based on what we have seen so far.

The EC is implementing completion of the internal market through a series of directives. These were laid out in a 1985 white paper which contained the blueprint of the 279 measures required to achieve the single market.

You have noted the percentages which have been adopted. Eighteen percent only remain to be drafted. Some of these will contain some of the toughest and trickiest issues of greatest concern to us.

The Commission timetable calls for completion of all measures by the end of 1990. This would allow two additional years for member states to implement those directives in their respective laws.

Thus, I think it is important to note that 1992 is not something that is going to happen all in 1992, but rather is happening now.

What are the areas to concern to us as we look at the current draft directives? Let me summarize a few of those. Perhaps you want to get into others in depth in questions. I would note first the issues of reciprocity and national treatment.

As we all are aware, there are proposals in several draft directives, namely banking, investment securities, and insurance, that would require reciprocity. This could be used to discriminate against U.S. firms by denying national treatment and MFN treatment, the principles which have been applied in this area historically.

We have been outspoken in our discussions on this, both in writing and in any number of meetings we have had with the Community. I think we have seen positive movement on their part in defining reciprocity.

They have yet to provide a final definition of reciprocity, but based on statements, even some as recent as last week by Commissioner Leon Brittan, they have rethought some of the earlier proposals and are moving in a direction we find comforting.

Quantitative restrictions. The problem here is that some member states have maintained quotas within the Community. That is individual member states quotas. There are over 1,000 of these remaining.

When you have achieved 1992 and there are no border controls, the question is what to do with them? Most of them it appears, will be allowed to expire.

There are some sectors in which the EC doesn't feel competitive and there is movement toward creation of new EC-wide barriers. There is a lot of talk about this for automobiles, for example.

We have told the Community quite firmly that any creation of new EC-wide quotas as a part of 1992 would be in violation of their GATT obligations.

Rules of origin is another area of concern. We, of course, need them but they should not be barriers to legitimate trade. We must assure they are reasonable, transparent, and predictable and they are not an arbitrary tool of commercial and industrial policy.

We are at a disadvantage in this are in that we don't have an international agreement on rules of origin.

We are seeking to negotiate such an agreement in the Uruguay Round. We may seek to reach an understanding bilaterally with the EC.

Product standards are also a cause for concern. There is a potential for manipulation of standards as unjustifiable trade barriers.

We need to improve the transparency and improve opportunities for participation of U.S. firms in establishing new standards. The key will be possibilities for bilateral mutual recognition and acceptance of testing and certification procedures.

These are being addressed in the Uruguay Round negotiations.

Let me address how we in the administration are managing this 1992 issue. We are aware there is criticism on two points, first that we are not well organized in the administration, and second, we do not have sufficient resources devoted to this issue.

We organized over a year ago in February 1988 the Interagency Internal Market Task Force.

Mr. Stoler, my deputy, chairs that group. It is participated in by 14 agencies in the administration, including some independent regulatory bodies.

That group has been active over the last 13 months. It has produced analyses for a number of areas, including a paper for public discussion we released last December focusing attention on what we thought were the key issue areas.

The task force we believe is working well. We have no complaints from those participating in it or from the private sector, which has had a lot of input. We feel that in that group we have got a good interagency coordination mechanism to address the issue.

EC 1992 is a major focus of U.S. overseas post activities in the community. Our mission to the European Community in Brussels and the embassies in the various member states are reporting on this issue.

We believe we certainly have sufficient resources for the job. The USTR is performing its function as a coordinating agency.

In a meeting last week Mr. Stoler's group set up 10 working groups to focus on specific areas of interest to us in the 1992 area.

They will be producing an intensive analysis of these areas both for use in the government and in the private sector.

We think we have been working well with the private sector. The Advisory Committee for Trade Policy and Negotiations set up an EC 1992 task force which is being chaired by GE vice chairman, Larry Bossidy. Mr. Stoler and I met with them last week. Their report will attempt to focus on what areas are of concern to the private sector and where they would like to see the U.S. Government help them on those issues.

We are working with our other official advisory committees and the task forces set up by businesses and trade associations, and they are numerous. We in the administration feel confident we can identify the trade policy issues raised by EC 1992. We are urging the private sector to identify those provisions in the directives which are adverse to our commercial interests.

This is where we need help from private firms to tell us what will negatively impact in the business area. The reports we are seeing coming in have been helpful in this regard. The National Association of Manufacturers and the Business Roundtable submitted their first reports. We are finding these helpful in focusing our attention on areas of concern.

We think the business-government relationship is a good one. In summary, Mr. Chairman, let me say that our posture is one of being cautiously optimistic about 1992. If the internal market is accomplished in a trade-liberalizing, competitive, and nondiscriminatory fashion, there is no doubt that it will be a benefit to us and the European Community. It is proceeding in that fashion for the most part.

I think there is fairly widespread agreement in the business community and the Government that that is the case. It is clear that 1992 is not one thing for which we can have a general response. It is rather a series of discrete actions. Our responses must be equally specific to those particular directives.

There are potential dangers, no question. There are pressures for protection from those economic interests in the community who feel vulnerable. I want to assure this committee that we are being alert to those dangers, working closely with the private sector. We have an active program to identify problem areas and develop proper responses.

We are monitoring closely any potential impact on U.S. trade interests. To the extent these arise, they will be on the table, we won't blink.

I will be happy to answer any questions you may have.

[The statement of Mr. Murphy follows:]

TESTIMONY OF JAMES M. MURPHY, JR.
ASSISTANT U.S. TRADE REPRESENTATIVE FOR
EUROPE AND THE MEDITERRANEAN

I AM JAMES M. MURPHY, JR. AND IN MY CAPACITY AS ASSISTANT U.S. TRADE REPRESENTATIVE FOR EUROPE AND THE MEDITERRANEAN, I HAVE OVERALL RESPONSIBILITY FOR MANY OF THE ISSUES ADDRESSED IN THE EC'S PROGRAM TO COMPLETE ITS INTERNAL MARKET BY A TARGET DATE OF 1992. WITH ME IS MY DEPUTY, ANDREW STOLER, WHO CHAIRS THE U.S. GOVERNMENT'S INTERAGENCY TASK FORCE ON THE EC INTERNAL MARKET PROGRAM.

A LITTLE MORE THAN A YEAR AGO, FEW PEOPLE IN THIS COUNTRY APPRECIATED WHAT WAS HAPPENING IN EUROPE IN CONNECTION WITH THE PROGRAM TO COMPLETE THE INTERNAL MARKET. THERE WAS A GREAT RISK THAT BOTH GOVERNMENT AND THE PRIVATE SECTOR WOULD BE CAUGHT "ASLEEP AT THE WHEEL" WHEN THE EC TOOK CRITICAL DECISIONS ON THE SHAPE OF EUROPE IN THE POST-1992 PERIOD. IT WAS AT ABOUT THAT TIME, IN FEBRUARY 1988, THAT THE ADMINISTRATION ESTABLISHED A MULTIDISCIPLINARY TASK FORCE -- DESIGNED TO SEE THE "FOREST" OF EC 1992 AS WELL AS THE "TREES", AND TO IDENTIFY THE KEY ISSUES IN THE PROGRAM AS THEY ARE LIKELY TO IMPACT ON U.S. INTERESTS.

THIS HEARING IS INDICATIVE OF THE MUCH HIGHER LEVEL OF ATTENTION WHICH IS BEING PAID TO "1992" DEVELOPMENTS IN THIS COUNTRY TODAY. THERE IS NOW SUBSTANTIALLY LESS RISK THAT U.S. INTERESTS WILL BE CAUGHT UNPREPARED BY THE CHANGES IN EUROPE. IT MAY BE POSSIBLE TODAY TO ATTEND FIVE "1992" SEMINARS A WEEK IN MOST MAJOR AMERICAN CITIES. WHILE THIS LEVEL OF ACTIVITY IN THE PRIVATE SECTOR MIGHT APPEAR AS OVERKILL, IT IS SERVING TO EDUCATE AMERICANS AND TO SENSITIZE THE EUROPEAN COMMUNITY TO OUR CONCERNS.

WILL THE EUROPEANS SUCCEED IN CREATING A SINGLE INTERNAL MARKET OF 320 MILLION PERSONS BY 1992, OR WILL THE EFFORT STALL SOMEWHERE SHORT OF THE GOAL. MY ANSWER IS THAT THEY CAN MAKE IT IF THEY KEEP UP THE CURRENT PACE. LET ME ADD THAT A HALF-SUCCESS OR FAILURE IN THE EUROPEANS' PROGRAM WOULD BRING WITH IT TREMENDOUS DOWNSIDE RISKS FOR US AS WELL.

STATISTICALLY, IT IS EASY TO SEE THE IMPORTANCE OF THE RELATIONSHIP WITH EUROPE. FROM THE QUALITATIVE STANDPOINT, THE RELATIONSHIP ASSUMES AN EVEN GREATER IMPORTANCE: THE 24 PERCENT OF ALL AMERICAN EXPORTS THAT WERE DESTINED FOR THE EC OVER THE PAST TWO YEARS CONTRIBUTED FORTY PERCENT TO THE CORRECTION WHICH OCCURRED IN OUR EXTERNAL ACCOUNTS. IN THE EUROPEAN EXCHANGE, WE CUT OUR TRADE DEFICIT IN HALF OVER THE PAST YEAR. CLEARLY THE EC MARKET MUST REMAIN OPEN TO U.S. GOODS AND INVESTORS AND MUST GROW IF WE ARE TO REALIZE OUR MACROECONOMIC OBJECTIVES. NOTHING CAN BE SO SUCCESSFUL IN MITIGATING LATENT STATIST AND PROTECTIONIST TENDENCIES IN THE EC AS REAL ECONOMIC GROWTH. THE COMPLETION OF THE INTERNAL MARKET -- IF IT IS ACCOMPLISHED IN A TRADE-LIBERALIZING, COMPETITIVE AND NON-DISCRIMINATORY FASHION -- CAN CREATE THIS ECONOMIC GROWTH IN THE COMMUNITY OF THE 1990'S.

BECAUSE OF THE POTENTIAL BENEFITS WHICH COULD FLOW FROM THE 1992 INITIATIVE, THE ADMINISTRATION SUPPORTS THE COMMUNITY'S INTERNAL MARKET COMPLETION PROGRAM. I BELIEVE THAT THE SAME IS TRUE FOR THE VAST MAJORITY OF U.S. BUSINESSES THAT ARE FAMILIAR WITH THE CONTENT OF THE "1992 INITIATIVE".

THIS IS NOT TO SUGGEST THAT THERE ARE NO PROBLEMS WHICH ARISE OUT OF THE 1992 EXERCISE -- ON THE CONTRARY, THERE ARE A NUMBER OF VERY SERIOUS CONCERNS WHICH WE CONTINUE TO HAVE AND WHICH ARE THE FOCUS OF BOTH THE INTERAGENCY TASK FORCE EFFORT AND THE WORK OF OUR PRIVATE SECTOR ADVISORS WORKING THROUGH THE ADVISORY COMMITTEE ON TRADE POLICY AND NEGOTIATIONS' (ACTPN) TASK FORCE ON "EC 1992".

THE NOTICE OF THIS HEARING ENUMERATED A NUMBER OF AREAS OF PARTICULAR INTEREST TO THIS SUBCOMMITTEE. NEARLY ALL OF THESE

SAME ISSUES FEATURED IN THE INTERAGENCY TASK FORCE'S PUBLIC DISCUSSION PAPER OF LAST DECEMBER AND MOST ARE ALSO THE FOCUS OF WORK IN THE ACTPN TASK FORCE. LET ME GO THROUGH THEM NOW AND PROVIDE A BRIEF UPDATE ON WHERE THINGS STAND.

RECIPROCITY AND NATIONAL TREATMENT

RECIPROCITY PROVISIONS HAVE NOW FOUND THEIR WAY INTO THREE DRAFT DIRECTIVES IN THE SERVICES SECTOR, RELATING TO BANKING, INVESTMENT SECURITIES AND INSURANCE. THESE PROVISIONS COULD BE USED TO DENY U.S. FIRMS THE OPPORTUNITY TO PARTICIPATE IN NEWLY LIBERALIZED MARKETS IN THESE SECTORS. SUCH DISCRIMINATION WOULD AMOUNT TO A DENIAL OF NATIONAL TREATMENT AND MOST-FAVORED-NATION TREATMENT AND CONTRAVENE EC MEMBER STATES' OBLIGATIONS TO THE UNITED STATES UNDER A NETWORK OF BILATERAL TREATIES AND MULTILATERAL UNDERSTANDINGS, SUCH AS THOSE IN THE OECD.

AS OF TODAY, THERE ARE SIGNS THAT THE COMMUNITY IS RETHINKING ITS POSITION ON THE RECIPROCITY QUESTION. BUT WE WILL NEED TO CONTINUE TO BE WATCHFUL AND WORK ACTIVELY TO OPPOSE ANY MEASURE THAT WOULD RESULT IN DISCRIMINATION AGAINST OUR INTERESTS.

QUANTITATIVE RESTRICTIONS

WHILE THE TREATY OF ROME CLEARLY GIVES COMPETENCE OVER TRADE POLICY TO THE EC COMMISSION IN BRUSSELS, A NUMBER OF MEMBER STATE GOVERNMENTS HAVE MAINTAINED TRADE RESTRICTIONS AT THE NATIONAL LEVEL FOR A RANGE OF "SENSITIVE" IMPORTS. ELIMINATING BORDER CONTROLS UNDER THE 1992 PROGRAM WILL RENDER SUCH RESTRICTIONS UNENFORCEABLE AND THE QUESTION ARISES AS TO WHETHER THESE MEASURES WILL BE PERMITTED TO EXPIRE OR BE REPLACED AT THE COMMUNITY LEVEL WITH NEW RESTRICTIONS.

IN NEARLY ALL CASES, IT SEEMS THAT THE COMMUNITY WILL ALLOW THESE RESTRICTIONS TO EXPIRE -- HOWEVER, IN CERTAIN SECTORS, AUTOS, CONSUMER ELECTRONICS, AND FOOTWEAR, THERE ARE STRONG POLITICAL PRESSURES TO REPLACE THE MEMBER STATE MEASURES WITH NEW COMMUNITY RESTRICTIONS. WE HAVE TOLD THE COMMISSION THAT WE REGARD THE EXISTING MEMBER STATE MEASURES AS GATT INCONSISTENT. NEW COMMUNITY-WIDE MEASURES WOULD ALSO VIOLATE THE EC'S GATT OBLIGATIONS.

RULES OF ORIGIN

RULES OF ORIGIN ARE NECESSARY IN ORDER TO DETERMINE THE APPLICATION OF DIFFERING RATES OF IMPORT DUTIES, ANTIDUMPING MEASURES AND ELIGIBILITY TO PARTICIPATE IN CERTAIN COMMERCIAL OPPORTUNITIES (SUCH AS SELLING TO A GOVERNMENT ENTITY WHERE PROCUREMENT RESTRICTIONS APPLY). AS SUCH, WE CANNOT TALK ABOUT ELIMINATING ORIGIN RULES AS WE WOULD IN THE CASE OF TRADE BARRIERS. HOWEVER, THE RECENT EXPERIENCES OF A U.S.-BASED PHOTOCOPIER MANUFACTURER AND U.S. PRODUCERS OF SEMICONDUCTORS HAVE DEMONSTRATED THE UNCERTAINTIES WHICH CAN ARISE IN THE MARKETPLACE AS A RESULT OF CHANGES IN AN ORIGIN RULE'S APPLICATION TO PARTICULAR PRODUCTS. CURRENTLY, WE HAVE NO MUTUALLY-AGREED STANDARD BETWEEN THE COMMUNITY AND THE UNITED STATES FOR ORIGIN DETERMINATIONS. IN THE URUGUAY ROUND, WE HAVE PROPOSED THE NEGOTIATION OF SUCH A STANDARD AND WE WILL BE PURSUING THIS ISSUE BILATERALLY WITH THE COMMUNITY AS WELL. WE WANT TO ENSURE THAT THE RULES OF ORIGIN USED IN THE EC ARE TRANSPARENT AND PREDICTABLE AND DO NOT REPRESENT ARBITRARY MEASURES EMPLOYED AS A TOOL OF COMMERCIAL AND INDUSTRIAL POLICY.

PRODUCT STANDARDS

CLEARLY, PRODUCT STANDARDS HAVE THE POTENTIAL FOR MANIPULATION AS UNJUSTIFIABLE TRADE BARRIERS. IT WAS RECOGNITION OF THIS THAT LED TO THE NEGOTIATION IN THE TOKYO ROUND OF THE GATT STANDARDS CODE. THAT CODE AND ITS PROTECTIONS AGAINST UNFAIR OR DISCRIMINATORY STANDARDS REMAINS IN FORCE AND SHOULD SERVE AS A POWERFUL DISINCENTIVE TO DISCRIMINATORY EC ACTIONS.

ALL THE SAME, THERE ARE LEGITIMATE CONCERNS IN THIS COUNTRY THAT THE NATURE OF STANDARDS DEVELOPMENT ACTIVITIES IN THE EC MAY RESULT IN THE ESTABLISHMENT OF EC-WIDE NORMS WHICH DO NOT ADEQUATELY TAKE INTO ACCOUNT THE INTERESTS OF U.S. PRODUCERS AND STANDARDIZING BODIES. WE ARE SEEKING TO MAKE THE EC PROCESS MORE TRANSPARENT AND INCREASE THE POSSIBILITIES FOR AMERICAN FIRMS' PARTICIPATION IN THIS ACTIVITY.

HEALTH AND SANITARY CONTROLS

IN THE COMMISSION'S 1985 WHITE PAPER ON THE INTERNAL MARKET INITIATIVE, YOU CAN FIND SUCH INFAMOUS MEASURES AS THE HORMONES DIRECTIVE AND THE THIRD-COUNTRY MEAT DIRECTIVE -- BOTH OF WHICH HAVE DAMAGED U.S. ECONOMIC INTERESTS. IN THESE CASES, THE COMMISSION'S PREDILECTION FOR SCIENTIFICALLY UNJUSTIFIED PROCESSES AND PRODUCTION METHODS -- AS OPPOSED TO PRODUCT QUALITY STANDARDS -- LED TO THE INTRODUCTION OF A TRADE BARRIER AND THERE IS A RISK OF FURTHER MEASURES OF A SIMILAR CHARACTER.

OPPORTUNITIES

GENERAL

I MENTIONED THAT THERE WERE MANY OPPORTUNITIES, AS WELL AS COSTS FOR THE UNITED STATES IN THE EC 1992 PROCESS. MANY OF THESE OPPORTUNITIES CAN BE FOUND IN THE NATURE OF THE PROGRAM ITSELF. HARMONIZED STANDARDS OFFER THE PROSPECT OF CLEARING ONE POTENTIAL OBSTACLE TO TRADE AS OPPOSED TO THE AS MANY AS TWELVE DIFFERENT BARRIERS. THE OPENING OF THE EXCLUDED SECTORS OF PROCUREMENT WILL MEAN SOME IMMEDIATE BENEFITS FOR U.S. FIRMS LOCATE IN EUROPE EVEN WITHOUT THE NEGOTIATION OF THESE SECTORS' COVERAGE UNDER THE GATT CODE. AND, A LACK OF BORDER CONTROLS AND RESTRICTIONS ON CROSS-BORDER SERVICES TRADE WILL MAKE POSSIBLE NEW EFFICIENCIES IN EUROPEAN OPERATIONS.

URUGUAY ROUND ASPECTS TO 1992

OTHER OPPORTUNITIES ARE CLEAR IN THE RELATIONSHIP BETWEEN THE 1992 EXERCISE AND THE URUGUAY ROUND.

IN TAKING UP THE RELATIONSHIP WITH THE URUGUAY ROUND, LET ME START WITH TIMING. IS THERE ANY REASON WHY THE 1992 PROGRAM SHOULD MAKE IT DIFFICULT OR IMPOSSIBLE TO COMPLETE THE URUGUAY ROUND ON SCHEDULE IN 1990? THE ANSWER IS NO.

MORE THAN FORTY PERCENT OF THE WHITE PAPER DIRECTIVES HAVE ALREADY BEEN ADOPTED AND THE COMMISSION'S INTERNAL TIMETABLE CALLS FOR COMPLETION OF THE LEGISLATIVE PROGRAM AT THE COMMUNITY LEVEL IN 1990. IN ADDITION, THE COMMUNITY'S DIRECTIVES, WHERE PARALLEL ACTIVITY IS UNDERWAY IN THE URUGUAY ROUND, NORMALLY MAKE PROVISION FOR TAKING INTO ACCOUNT THE RESULTS OF ANY BILATERAL OR MULTILATERAL NEGOTIATIONS.

TURNING TO THE SUBSTANCE OF THE NEGOTIATIONS, FAR FROM IMPEDING PROGRESS IN GENEVA, WE HAVE FOUND THAT THE COMMUNITY INTERNAL MARKET INITIATIVES FREQUENTLY ADVANCE THE POSITION OF COMMUNITY NEGOTIATORS IN THE GATT TALKS. TO CITE SOME EXAMPLES:

-- IN THE GOVERNMENT PROCUREMENT AREA, THE PROSPECT OF LIBERALIZATION WITHIN THE EC OF THE SO-CALLED "EXCLUDED SECTORS" OF PROCUREMENT HAS CONTRIBUTED IMPORTANTLY TO EC NEGOTIATORS' WILLINGNESS (FOR THE FIRST TIME) TO DISCUSS SUBJECTING THIS PROCUREMENT TO THE MULTILATERAL DISCIPLINES OF THE GOVERNMENT PROCUREMENT CODE.

-- IN THE FIELD OF INTELLECTUAL PROPERTY RIGHTS PROTECTION, THE COMMISSION, WHICH WAS INITIALLY INTERESTED ONLY IN NEGOTIATING ON THE COUNTERFEIT GOODS TRADE QUESTION, IS NOW PREPARED TO NEGOTIATE A MUCH BROADER PACKAGE. THE EC NOW AGREES WITH THE U.S. ON SUBSTANTIVE GOALS, ALTHOUGH DIFFERENCES PERSIST ON TACTICS.

-- IN THE SERVICES AREA, IF WE CAN PERSUADE THE EC TO DROP ITS ADHERENCE TO THE SECTORAL RECIPROCITY CONCEPT, THEN REGIONAL LIBERALIZATION OF SERVICES MARKETS WITHIN THE COMMUNITY AS A RESULT OF THE 1992 PROGRAM WILL MAKE THE EC MEMBER STATE GOVERNMENTS AND EC SERVICE INDUSTRIES MORE WILLING TO ACCEPT THE NOTION OF MULTILATERAL LIBERALIZATION -- WHICH IS THE OBJECT OF THE URUGUAY ROUND TALKS.

IN OTHER AREAS OF THE URUGUAY ROUND, THE EVENTUAL IMPACT OF THE 1992 INITIATIVES ON EC NEGOTIATORS' POSITIONS IS LESS CLEAR AT THIS STAGE. NEVERTHELESS, OUR ANALYSIS TO DATE INDICATES FEW AREAS WHERE THE 1992 INITIATIVES ARE LIKELY TO RUN IN A DIRECTION WHICH IS COUNTER TO THAT OF THE URUGUAY ROUND.

THE U.S. GOVERNMENT'S EFFORTS ON 1992

LET ME NOW ADDRESS THE QUESTION OF WHAT WE ARE DOING IN THE ADMINISTRATION TO IDENTIFY, ASSESS AND REACT TO DEVELOPMENTS AND POLICY ISSUES IN THE EC IN THE INTERNAL MARKET CONTEXT.

I MENTIONED BEFORE THAT AN INTERAGENCY TASK FORCE HAS BEEN IN OPERATION FOR MORE THAN A YEAR NOW AND THAT THE FOCUS OF THE TASK FORCE'S EFFORT IS TO IDENTIFY POTENTIAL PROBLEMS AFFECTING AMERICAN INTERESTS AND TO DEVELOP APPROPRIATE POLICY RESPONSES TO THESE PROBLEM AREAS. TWICE IN THE PAST SIX MONTHS, THE TASK FORCE HAS PRODUCED POLICY RECOMMENDATIONS ON KEY 1992 QUESTIONS AND FORWARDED THESE RECOMMENDATIONS TO THE TRADE POLICY REVIEW GROUP AND THE CABINET-LEVEL ECONOMIC POLICY COUNCIL. IN ADDITION, THE TASK FORCE PREPARED A PUBLIC DISCUSSION PAPER ON THE ISSUES ARISING OUT OF 1992 IN AN EFFORT TO FURTHER STIMULATE THE 1992 DIALOGUE WITH THE PRIVATE SECTOR IN THIS COUNTRY.

AS THE 1992 PROGRAM MOVES INCREASINGLY AWAY FROM OFTEN VAGUE LEGISLATIVE PROPOSALS AND MORE INTO AN IMPLEMENTATION PHASE, WORKING GROUPS ARE BEING ESTABLISHED IN TRADE AND INVESTMENT ISSUE AREAS UNDER CONSIDERATION IN THE TASK FORCE SO THAT THE ADMINISTRATION IS PREPARED TO MOVE FROM A MONITORING/POLICY DEVELOPMENT STAGE TO ONE OF POSSIBLY ACTIVE NEGOTIATIONS WITH THE COMMUNITY. THIS ORGANIZATIONAL MOVE DOVETAILS WITH THE RESULTS WHICH ARE NOW COMING OUT OF INDIVIDUAL AGENCIES' ANALYSIS OF THE IMPACT OF EC DIRECTIVES IN THEIR GENERAL SPHERE OF INTEREST. COMMERCE, AGRICULTURE, TREASURY AND, TO SOME DEGREE STATE AND LABOR ARE WELL ADVANCED IN THEIR WORK ON THE INDIVIDUAL MEASURES.

AT THE SAME TIME, OUR PRIVATE SECTOR ADVISORY COMMITTEES ARE BECOMING INCREASINGLY INVOLVED AND SOPHISTICATED IN THEIR INVESTIGATION OF 1992 ISSUES. AT THE TOP, THIS ACTIVITY IS CENTERED IN THE TASK FORCE ESTABLISHED BY THE PRESIDENT'S ADVISORY COMMITTEE ON TRADE POLICY AND NEGOTIATIONS (ACTPN), CHAIRED BY MR. LAWRENCE BOSSIDY OF GENERAL ELECTRIC COMPANY AND INCLUDING KEY REPRESENTATIVES OF LABOR, SERVICES AND AGRICULTURAL TRADE INTERESTS. THIS FOCUS ON 1992 IS BEING REPEATED AT THE LEVEL OF THE POLICY ADVISORY COMMITTEES AND THE INDIVIDUAL SECTORAL ADVISORY COMMITTEES WHICH ALSO MAKE UP THE ADVISORY COMMITTEE PROCESS.

IF OUR ACTIVITY WITH THE PRIVATE SECTOR ON 1992 QUESTIONS IS INTENSIFYING, SO TOO IS OUR DIALOGUE WITH THE EUROPEAN COMMUNITY. OVER THE PAST SIX MONTHS, WE HAVE HELD NUMEROUS WORKING-LEVEL AND TECHNICALLY-ORIENTED CONSULTATIONS WITH THE COMMISSION AND MEMBER STATES AND THIS PROCESS WILL CONTINUE. AT THE HIGHER LEVELS, NOT A BILATERAL MEETING TAKES PLACE WITHOUT INTERNAL MARKET ISSUES FEATURING PROMINENTLY ON THE AGENDA. IN FACT, IN HER FIRST MEETING WITH NEW EC VICE-PRESIDENT ANDRIESSEN, 1992 ISSUES WERE THE FIRST ITEM ON AMBASSADOR HILLS' AGENDA.

TO SUM UP, MR. CHAIRMAN, A LOT HAS BEEN DONE ALREADY ON THE ISSUES ARISING OUT OF THE INTERNAL MARKET COMPLETION PROGRAM, A LOT IS GOING ON NOW AND THERE IS MUCH MORE TO BE DONE OVER THE LONGER TERM. THIS IS AN EXERCISE WHICH WILL BE WITH US FOR SOME TIME TO COME AND WHICH IS DESERVING OF THOSE RESOURCES WHICH WE

ARE DEVOTING TO IT. AS THE PROGRAM EVOLVES, THE NATURE OF EUROPE WILL BE CHANGED DRAMATICALLY AND WE WILL NEED TO FREQUENTLY REVISIT THE WAYS IN WHICH WE DEAL WITH THESE CHANGES.

THANK YOU.

Chairman GIBBONS. Thank you, sir.

Who, at the present, is designated in our government to be responsible for Europe 1992?

Mr. MURPHY. The U.S. Trade Representative, Ambassador Carla Hills, has that responsibility, Mr. Chairman.

Chairman GIBBONS. How many people will she devote out of her staff to follow this matter?

Mr. MURPHY. Well, clearly it becomes a major responsibility for myself, my deputy, and for others in my particular unit. It also is a part of the responsibilities of many others in the agency who may be affected by this, people in our Agriculture unit, our GATT Affairs unit. I can't give you a specific number, but it touches on the area of responsibilities of a large number of people in the USTR.

Chairman GIBBONS. How much of your time do you devote to this?

Mr. MURPHY. I would say it is probably about 10 to 15 percent a day. On some days it is 100 percent, as in attending conferences. Mr. Stoler and I are invited to make a number of speaking appearances, participate in various panels. Probably Mr. Stoler has been averaging 1 or 2 days a week recently on the road speaking.

I have been averaging a little bit less.

Chairman GIBBONS. Do you have a list of potential problems that you foresee in this Europe 1992?

Mr. MURPHY. We do. The paper I referred to earlier, the public discussion document, provides a list of alternative areas that are potentially of concern to us.

Chairman GIBBONS. This is a long list of issues. Do you think you have enough people to cover it?

Mr. MURPHY. At the moment we do, Mr. Chairman. The approach to this is very much one of interagency coordination. Ten working groups have been established by Mr. Stoler's task force. They will draw on the resources of large numbers of people. For example, the State Department will be analyzing EC treaty obligations to us which may impact on the issue of reciprocity. We are tapping into the expertise in the various agencies.

I think we have got the resources to manage this.

Chairman GIBBONS. What do you think is the biggest potential problem we face?

Mr. MURPHY. The common theme of our concerns, Mr. Chairman, is one of discrimination, whether we are talking about rules of origin or reciprocity. The common issue here is a concern that some way will be found in preparing a directive which will in some fashion discriminate against third-party or U.S. interests and disadvantage us as compared to an EC native company.

That is the common theme that cuts across all of these issues.

Chairman GIBBONS. When you find something like that, who do you alert in this Government and who do you alert in the European Community?

Mr. MURPHY. In this Government, the alert would go first to the Trade Policy Review Group and to the USTR. With regard to the Community, we have communicated at the commissioner level through letters from the USTR. We have communicated in a number of meetings from the cabinet level, subcabinet, my level and indeed technically expert groups who travel to Brussels and

meet with people who actually draft the directives. So the communications have been taking place at all levels.

Chairman GIBBONS. What problems do you have that are unresolved to date?

Mr. MURPHY. A number are still outstanding. Certainly all the ones I referred to are still outstanding. That is, reciprocity remains to be clearly defined by the Community. Standards remains outstanding in the sense that there are still standards directives being drafted which we have not yet seen.

Rules of origin remains an open question since we don't have an agreement on that. There are any number of issues. Indeed, all I mentioned are still open questions for us.

Chairman GIBBONS. How about domestic content?

Mr. MURPHY. That's a piece of the rules of origin issue, very much still an open question.

Chairman GIBBONS. Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman.

Mr. Murphy, the United States and Japan, I think, have a common interest in montoring developments in Europe on these issues.

Do we consult with the Japanese concerning the 1992 excise.

Mr. MURPHY. We have not had any formal consultations. We have had some informal discussions between us. They have suggested they would like to sit down and compare notes. We have indicated a willingness to do that. The trick here is that quite often when we raise our concerns with the community about a particular draft directive, the response one often gets is, "You Americans shouldn't worry about this. This is actually directed to the Japanese." That is small comfort because we can get caught in that net.

But it is something one has to keep in mind, that the target of many of these things that we find offensive is Japan.

Mr. CRANE. It has been noted that the fall of the dollar has had the most beneficial impact on our trade imbalance with the European Community, compared with other countries.

Do you expect this trend to continue? What potential obstacles or disruptions do you see coming?

Mr. MURPHY. USTR does not have independent expertise in this area. We find some conflicting forecasts in this area. Whether in fact we can sustain the reduction in the trade deficit by increasing exports is a question, I think in the case of the EC, there is a lot more potential to increase our exports.

I think that is part of why we and the business community look for the most part to the 1992 activity to the beneficial. I think there is a potential for vastly increasing our exports to that market.

Mr. CRANE. You indicated in your testimony that there are, "tremendous down-side risks if the Europeans fail in this effort to create a single market." Could you elaborate just a little bit on some of the risks that you see and some of the potential consequences for our relations with them as a trading partner?

Mr. MURPHY. I think it is useful to remember that it was not too long ago that the talk about Europe was all about Eurosclerosis, Europessimism. We forget that because we are focused on the ex-

citement of 1992, and it is genuine excitement. It has not been that long ago that people were negative about Europe.

I think that is a function of the fact that 1992 does offer the Europeans a way to solve a lot of their problems. It is in their minds a way to catch up with Japan and the United States they view themselves as being not only behind, but falling further behind.

I think it is critical that 1992 succeed if we are to continue this positive outlook in Europe and to achieve the economic growth they need. If it slips and it fails, then I think we could very quickly get back into the position—or they could, where they were a year or two ago where the focus is on the pessimistic outlook for Europe and the failure to achieve the growth. Slipping backwards will exacerbate pressures for protectionism in Europe and deny us market opportunities.

One doesn't like to contemplate that scenario. If it moved in that direction, it would be bad for not only economic growth, but the protectionism that would follow in Europe.

Mr. CRANE. I have one final question I would like to address to you. It has to do with concessions that you think the Europeans are prepared to make on subsidization of agriculture. My understanding is that one of the problems in Montreal last year was us trying to get them to agree to a timetable of absolute elimination in the Uruguay Round of agricultural subsidies by them and by us by a date certain.

My further understanding is, thus far, they have remained adamant that they will not agree to some date certain when they will eliminate all agriculture subsidies. Is that a potential sticking point on negotiations?

Mr. MURPHY. It certainly is potentially a sticking point. It is an issue, as you are no doubt aware, that is under negotiation even as we speak. Secretary Yeutter and Ambassador Hills have had meetings with their counterparts over the last few weeks on that very question that you raise.

It is a central issue between us in the agriculture negotiations. Discussions continue this week in Europe at the official's level. As you know, we look forward hopefully to some resolution by the April 6 meetings in Geneva on this. You are correct to identify that as a very difficult issue. I can't tell you it has been resolved yet. It hasn't but it is under intense discussion between both sides.

Mr. CRANE. The only concern is after that hormone beef controversy and our retaliation, this sort of thing could mount and is certainly counterproductive in terms of not only the Uruguay Round, but in terms of looking forward to a post 1992 date in improved relations in trade between us and our European partners.

I want to thank you, Mr. Ambassador, and wish you God speed in your efforts.

Chairman GIBBONS. Mr. Downey.

Mr. DOWNEY. I want to add my thanks to the Ambassador as well and thank him for participating in the conference that Congressman Frenzel, myself and Senator Roth had. I plead guilty to taking him at least part of the time out of his office.

Ambassador, can I ask you, Mr. Bzrezinski suggested to President Bush that the United States set up a Pacific Rim trade bloc to counter EC 1992. What do you think of that idea?

Mr. MURPHY. The whole issue of whether we are drifting to or should be pushing towards trade blocs is one that is of very much concern, I think, to all of us in the trade area. It is something our community counterparts raise with us as of great concern. Certainly as a matter of policy we are not advocating that nor pushing for it, nor do I think there is any serious consideration in the administration for moving in that direction.

The greater concern is there may be some drift in that direction. There is certainly no intention to actively seek the formation of such trading blocks. I can't imagine any great advantage to doing so and I could imagine some disadvantages. I don't expect to see us moving in that direction.

Mr. DOWNEY. You don't see it as inimical to our trading relationships with other nations to develop bilateral free trade zones, do you? If we could achieve one with Mexico or other states similar to the one we have with Israel or Canada, you don't see that as a potential problem, do you?

Mr. MURPHY. It is potentially a problem, I think, we have to be cautious of. I think we have to be careful that pursuit of these agreements don't detract from our primary objective of maintaining and strengthening a multilateral system. We have tried to be careful about that as we have done our free trade agreements with Israel and with Canada.

We have in that regard turned down a number of requests from other countries to pursue free trade area agreements because we didn't want to be devoting too many resources to those kinds of undertakings. Our primary objective has been and remains the strengthening of the multilateral system.

I think we are going to continue to be focusing in that direction for some time.

Mr. DOWNEY. If I can turn my attention to a matter that my colleague, Mr. Crane, alluded to, that is beef hormones. Can you give us an update as to where that issue lies now?

Mr. MURPHY. At the February 18 meeting here in Washington, which was attended by Commissioner McSherry and Vice President Andriessen on the EC side and Ambassador Hills and Secretary Yeutter on this side, it was agreed to set up a task force which would work for a period of 75 days to try to find a solution to the issue.

That task force has a very active work program. It scheduled four meetings in an 8-week period. It had the first meeting in Washington. It has had the second meeting in Brussels this afternoon. That group is very much focused on how we can find a solution to this given the EC directive on the one hand and given U.S. production methods on the other hand which is to say we use hormones as growth stimulants in our beef industry, and we have to find some way of trade given those two points of view.

Effort is being put on both sides to come to some conclusion within that 75-day period.

Mr. DOWNEY. Thank you.

Mr. Chairman, I would hope in our process of overseeing EC 1992, that we recognize that there are many committees of the Congress that have interest in this, the Banking Committee, the Commerce Committee, the Foreign Affairs Committee. I would

hope as we ask the administration to coordinate its efforts, that we also coordinate our efforts so that Ambassador Murphy doesn't spend his time up here telling six different committees of Congress the same thing 6 different or 12 different ways.

I would ask the chairman to look into that. Maybe we can establish some cross-jurisdictional working group on this, and do that so there is one group for the Ambassador and others to come to.

Mr. MURPHY. We would be most appreciative of anything you can do in that area, Mr. Chairman.

Mr. DOWNEY. Thank you, Ambassador Murphy.

Chairman GIBBONS. Mr. Matsui.

Mr. MATSUI. Thank you, Mr. Chairman. First of all, I would like to commend you, Mr. Chairman, for holding these hearings. As you know, when we talked about the schedule for the 101st Congress, one of the issues that came up was 1992. I think you should be commended for moving ahead and holding these hearings and following through on that request.

I would like to just ask the Ambassador a couple of questions. I look upon this whole effort by the Europeans for unified economy as something similar to what we did back in the late 1700's when we moved from the Articles of Confederation to a full Constitution.

I think economic integration will probably one day lead to a political integration. So I have to believe that our role will be insignificant because they are obviously looking from their own perspective.

I would like to ask you some process questions because I think they are all we can ask at this stage. You indicated there is a timetable of 1990 when the Europeans want to have at least the conceptual framework established. Is that correct?

Mr. MURPHY. Yes, they have set a goal for themselves to have all the directives initially laid out in the 1985 white paper, the 279th the chairman referred to, for all those to be approved and adopted by the Council by the end of 1990.

Mr. MATSUI. I want to ask two questions. In your testimony you said we expect to negotiate with the Europeans through the Uruguay Round. That may or may not be acceptable because we have a very limited time frame with respect to Europe 1992.

If we are talking about the Uruguay Rounds, we are talking about potentially a 5-year or longer process. Is there any effort being made to enter bilateral negotiations? I understand discussions are going, but is there any opportunity for the United States and the Europeans to begin bilateral negotiations before they get their conceptual framework established?

Are we making any effort to try?

Mr. MURPHY. As you know, at least in the area of telecommunications, the Trade Act from last year foresees that we will. Indeed, we are mandated to seek negotiations and agreements with the Community in telecommunications.

That is at the same time that some of those elements of telecommunications will be negotiated in the Uruguay Round.

For example, Government procurement and services the link between what we are doing bilaterally and in the Uruguay Round is a tricky one, but one that is positive. There are a number of areas where we see what the EC is proposing to do under 1992 as driving

in a very positive way what they are willing to do in the Uruguay Round.

This is just one example. In previous rounds, the EC refused to bring telecommunications administrations under the Government procurement code. They refused also in the last round, the Tokyo Round. With their move under 1992, where they are bringing telecommunications administrations under the 1992 movement, which is to say procurement by those administrations will be opened up on a competitive basis, that is leading them to take a positive attitude for the first time in government procurement negotiations in the Uruguay Round.

We are seeing positive movements on their positions in Uruguay Round areas. At the moment, it looks like 1992 is having a positive impact on Uruguay Round discussions.

Mr. MATSUI. I realize you continue to discuss telecommunications with the Europeans. My concern is that, as the Europeans begin to discuss, sector by sector, their own concerns as they reach their 1990 conceptual framework, are we going to attempt any bilateral negotiations with them?

Or will negotiations be on a case-by-case basis as we squawk and scream? Then you will obviously have to begin discussions. I need to know if you will be operating from, or at least trying to set up, a general framework.

Mr. MURPHY. A couple of points in response. In the first instance, the community is sensitive on the question of not negotiating of the content of the directives. They have made it clear that in a formal sense it is a non-negotiable issue. It is an internal matter for them. They are willing to talk to us, consult with us. Indeed, that is going on. Indeed, the focus of these 10 working groups that I mentioned that have been set up will be to identify very specifically items that we want to go and try to persuade the Community to move in a particular direction on.

But it won't be called in any sense a formal negotiation. That is a point of great sensitivity to them. That doesn't inhibit our ability to bring to them our concerns, put them on the table, talk about them and communicate with them through letter or formal meetings, what have you. There will not be formal negotiations, but any number of discussions from the technical level up to the Cabinet level on issues of concern to us in 1992.

Mr. MATSUI. You said the Uruguay Round is being powered to some extent by discussions on 1992. Do you feel the Europeans will take the Uruguay Round seriously as we move toward 1992? Do you feel that we will continue as is? Where are we going on that? I know those negotiations could be rather difficult and lengthy.

Mr. MURPHY. I think it is fair to say the Commission's energies have been more focused on 1992 than on the Uruguay Round for the last couple of years.

But increasingly they are focusing on the Uruguay Round and they are seeing more of the interconnection between their 1992 activities and their Uruguay Round negotiating interests.

So I think clearly both are beginning to come together in their minds as they are in ours.

It has been a slowly evolving process, but it is happening.

Mr. MATSUI. If I can turn to the second part of my process questions.

Mr. Downey raised the possibility of a task force of Democrats and Republicans of the House, and I guess the Senate, to meet with you periodically.

I take it that is something you would rather do than deal with six or seven different committees or subcommittees of the Congress?

Mr. MURPHY. It sounds like it would introduce some simplification and efficiency into the process, yes.

Mr. MATSUI. I yield to the gentleman from New York.

Mr. DOWNEY. I think it is fair to say that one of our major claims here is that the administration is not together on this entire issue of coordinating its efforts. We are going to be guilty of the same thing. They will be up here repeating themselves time, after time, after time.

If our response should be coordinated, I would ask the Speaker to put together something so we can do it in an ongoing way. Otherwise it will be a ridiculous waste of duplication of effort.

Mr. MATSUI. I think that makes sense as long as we are on that task force the Speaker appoints.

Mr. DOWNEY. I assume Mr. Gibbons would chair such a task force.

Mr. MATSUI. Mr. Dingell could get on.

Let me move, if I may, to one other question. You mentioned telecommunications. We are going to have someone from the Semiconductor Industry Association testify this afternoon.

Where are we on the semiconductor issue? There is a story in the Post today.

How does that relate to the 1992 issue?

Mr. MURPHY. The area of semiconductors is one that has been under intense discussion between us and the community for the last several years. We have, as you know, over the last 5 years entered into some agreements with Canada and Japan to do things like eliminate tariffs on semiconductors and computer parts.

At each state of that process, we invited the Commission and the community to join with us, and they have refused. They have subsequently argued that we left them out. That is not accurate. We always invited them to join in as the other major producing and consuming area of the world.

For reasons of their own, largely having to do with the feeling in their industry that they were not competitive on a world-class basis, they maintained their very high duty of 17 percent, now down to 14 percent.

Then when we had the United States-Japan agreement, this caused a great deal of consternation with our EC friends, and they filed a GATT complaint. We are still in the process of working out the details of how that is to be addressed.

In the meantime there have been some fairly constructive discussions at the industry level between our Semiconductor Industry Association and their counterparts in the Community. We are hopeful those discussions may lead to a more constructive approach and agreements between our two industries as to how they would like to see the world trading arena in semiconductors look.

As for the EC's recent actions requiring that diffusion takes place in the community for a semiconductor to be considered of EC origin, we had a presentation last week from a gentleman who I believe will appear on a panel today, alerting us of the concerns and impact of that on at least some U.S. companies.

We are pursuing that further to get a better feel for what impact is on how many U.S. companies and what, in fact, we might do about it.

This gets back to the whole question of local content, rules of origin and the absence of any agreed international, even bilateral, standards.

It is something we are pursuing in the Uruguay Round and something we will be pursuing bilaterally with the Community. That is an area we have yet to sort out with the Community.

Mr. MATSUI. There are many Members interested in that issue. I would like to be kept informed of your discussions.

Mr. MURPHY. Be happy to do that.

Mr. MATSUI. Thank you.

Chairman GIBBONS. Mr. Schulze.

Mr. SCHULZE. Thank you, Mr. Chairman.

Mr. Murphy, I am one of those who is coming down on the side that I view Europe 1992 as, perhaps, one of the greatest opportunities for them to develop a protectionist society that has come down the pike for a long time.

If I could make one recommendation, I think our negotiators should not let go of this and say isn't this a marvelous opportunity, but how are we going to be snookered? I would hope they would be tough and defend the rights and look out for what is best for the United States of America.

When Ambassador Hills was before us in a discussion of trade policy, it seems to me—I don't have her words in front of me—but she made a strong point of saying that we must use bilaterals as a tool to achieve what sometimes are our multilateral objections, objectives. And if I understood you correctly, you sort of ran away from that. I want to give you the opportunity to correct that.

I thought you just said, in fact, that the United States told several countries "Don't talk to us now. This is not the time."

I think that if we walk away from bilaterals, we are not going to get anywhere in the multilateral field. I think the most important club in the bag is bilaterals.

I think we should keep them active at all times. I wanted to ask you about that to make sure everybody in the USTR is heading in the same direction.

Mr. MURPHY. Needless to say, I would certainly agree with my boss on this point. What I was saying was that at the time we were still negotiating with the Canadians, the requests from certain other countries or groups of countries to negotiate free trade area agreements would simply stretch our resources beyond what we could handle.

Negotiating a free trade area agreement, particularly with Canada, which is, as you know, a significant trading partner, requires an awful lot of resources from a whole host of agencies in the trade community.

Doing more than one of those at a time would stretch it beyond what we could reasonably handle. It isn't to say, and, indeed, we have not made decisions not to do those. Indeed, I assume we would be, under the appropriate circumstances, open to further bilateral agreements.

Mr. SCHULZE. My response would be to say, gosh, that is any interesting concept. If you can put some thoughts down, we would be happy to look at them. And if you see differences that have to be resolved, I would be extremely positive in working them out. This doesn't mean you have to sign a bilateral the next day.

It might even be a 5- to 10-year negotiating period. At the turn of the century or after, I view a worldwide trading order in which the United States of America is the leading Nation. If we are going to do that, we have got to be in a position from time to time to call the tune.

If we just renounce all bilateral and say, everybody else has to go the way of the EC or somewhere else, we are going to be in big trouble. I think that we need that club in the bag.

Now, you also stated that we have to be a little cautious in having input into that. Let me urge you to throw a little caution to the wind. That when we were discussing a trade bill in the United States of America in Congress, there was no lack of input from Europeans on what we would put in that bill, and their thoughts on it and their feelings and their emotional responses to some of our suggestions.

So if you would like some emotional responses—let me say parenthetically, I agree with the suggestion that we have a working group perhaps to coordinate this—I know there are Members on this panel who will go over there and give them emotional responses.

But don't let them get you tied up in diplomatic talk and niceties, saying isn't that nice. If you are going to, if it is going to cause political fire storms over there, call us.

We will go over there and lay it out and tell them what is going on and how it is happening. If we had marvelous multilateral structure around the world and agreements, it would be marvelous. But we don't. I want you to make sure that we realize that we are negotiating for the United States of America. If that helps the rest of this international trading world, that is all the better.

We want to help the United States of America first. Was it Charlie Wilson who said "What is good for the U.S.A. is good for the world"? Anyhow, I think you should have that kind of attitude. I think we are one of the most free and open trading structures in the world. Maybe there are a couple of countries that are more open.

Now I would like to be a little specific. Reciprocity. If they put a pure reciprocity structure in and it is starting to take shape, I understand, would that be advantageous or disadvantageous to us in the service area?

Mr. MURPHY. Well, it depends on, I think, what is meant by pure reciprocity. The community has not defined for us what they mean by it.

They have said what they don't mean. They said they don't mean mirror image reciprocity. But they have yet to define for themselves what they do mean.

We have argued it is not a concept we think is the best. We have been argued the concepts of national treatment and MFN, which have been the basis on which we built this system, are better.

We have attempted to discourage them from putting in the concept of reciprocity however defined. We have been encouraged by the movement shown on this from where they were a year ago to where they are today.

They are moving in a direction we are comfortable with. They are not there yet and have yet to define it clearly for us.

Mr. SCHULZE. Does that mean if our banking structure is open to European tradings that theirs would be open to ours?

Mr. MURPHY. They have not come to us with that formulation.

Mr. SCHULZE. I don't know that we should run away from reciprocity totally. I think if you say, by reciprocity, you mean whatever you do will be reflected overseas, and will you be willing to accept reciprocity on your reciprocity?

I think that, again, we have the largest market in the world. So if they want to play the reciprocity game, we could probably play that in spades. We may even be advanced by reciprocity.

I hope when you look at these, you will say it is in the United States of America's best long-range interest to have that kind of policy?

I think in many instances they may be disadvantaged in the short run by implementing some of those policies, and I think they are probably astute enough to realize that but they may institute them anyway. Let them learn by acting.

How about reciprocity in the non-service sector? Would that disadvantage us a little bit more?

The next question is going to be in agriculture, or have you not looked into that yet? It seems to me in those three areas we may get three different answers.

Mr. MURPHY. I don't believe they have proposed reciprocity outside of the services area. They have considered it in those areas not covered by the GATT since the concept would be counter to their GATT obligations. So they have limited themselves to talking about reciprocity in the services sector so far.

Mr. SCHULZE. How about the financial community, are they saying they are going to open their financial structures?

Mr. MURPHY. They are not saying that yet. The debate is raging on that side of the Atlantic.

To pick an example, the British enjoy a major international financial center in London. They are very aware that most any concept of reciprocity you could come up with could well endanger that. I cannot imagine that they would do anything but oppose any reciprocity in the financial services area. That debate is raging. We are weighing in with our point of view to try to make it go in the direction we would like to see it.

Mr. SCHULZE. Do you feel we are being effective in the input we are having?

Are other people being more effective? Are there things we should be doing which we are not doing? Should we be getting more private sector involvement?

Mr. MURPHY. I think we are doing what we should be doing. The private sector is beginning to produce reports. There are many task forces working away on this. We are getting those reports in working with our official advisers and our ACTPN EC-92 task force. I think we have good contacts with the private sector. There have not been that many complaints from trade associations to date.

Mr. SCHULZE. How about merger control and what do you see happening if you look in your crystal ball?

Mr. MURPHY. That is an area that looks to be in relatively good shape. In fact, in our discussions with our ACTPN EC-92 task force last year, that looked like one which at the moment did not need further analysis. It seems they were moving in a direction people were comfortable with. It looks reasonably good at the moment.

Mr. SCHULZE. Thank you.

Mr. MURPHY. May I reassure Mr. Schulze that I would not disagree with his opening comments about the need to be vigilant and firm in responding to community activities in this area.

I would only take note of our dispute on the hormone directive, which is an EC-92 directive. In that case where the community did block U.S. exports, we responded within the hour on an equal amount of their trade. That should send a message to the other side that we will respond firmly and fully when it is necessary.

Mr. SCHULZE. Thank you.

Mr. GUARINI. Mr. Ambassador, the former Secretary of Commerce said no other issue places a greater need for cooperation between the United States Government and the private sector—not market access to Japan or controls to the U.S.S.R. or the rise of the Third World industrialized nations to prominence or the Latin American debt. That is a very big statement.

The private sector, which must play a very important role, how much input are you getting from them?

You have not asked for additional resources. You say you spend 10 to 15 percent of your time on this 1992. We know there are tremendous questions and input that is necessarily large and small business alike in regard to national treatment and reciprocity.

We are also concerned about Government procurement and the 50-percent EC content regulations. We also know that standard practices and procedures, like the hormone standards that are set, all of these are very important and necessary input that the Government must get in these different sectors.

How are you set up to establish the rapport with the American business community, large and small? I know GE and ITA and Texas Instruments are all well capable of taking care of themselves, but there are lots of smaller ones that are not aware of how 1992 will affect them, whether it is ancillary or direct trading. What is your response to the grassroot trading in the United States?

Mr. MURPHY. There are a number of activities we have going with the private sector. Some are through the official advisory groups. I mentioned the ACTPN task force chaired by GE Vice Chairman Bossidy. That group is working on issues of concern to

them that they want us to focus on. We have said that we in the Government are quite capable of identifying when a directive is in violation of international obligations or bilateral agreements.

Where we need private sector input is to focus on particular elements of directives which adversely impact business, where does it hurt a business in its day-to-day activities. That is what we need them to tell us. We are working with the private sector advisory committee like this task force, as well as the APAC, ISAC's, where Commerce employees are going through each directive with these individual ISAC's, and pointing out which ones they should focus on.

Mr. GUARINI. Do you have these task forces set by sectors, or is it a program that you know you are getting feed from the bottom, or is it just the squeaky wheel gets the oil?

Mr. MURPHY. No. The official advisory committees are set up by sector and the working groups here are set by issue. I think we have them all covered fairly well. There are any number of groups, like NAM, Business Roundtable and the Chamber, who have established task forces for 1992 on their own initiatives.

Mr. GUARINI. That is all big business. There are millions of small businesses affected.

Mr. MURPHY. The attempt to address this issue to medium and small businesses has been through the Commerce Department, which has a mailing list of some 50,000 companies across the country to whom we are mailing out information as we get it.

Mr. GUARINI. Are you getting information back from them that you are disseminating or analyzing?

Mr. MURPHY. It is only just beginning to come back. In addition, Commerce is running seminars open to medium and small businesses to alert them as to what is going on. There have not been a lot of complaints so far.

Mr. GUARINI. But you are seeking them out.

Mr. MURPHY. Yes. We continue to do that. We hope to get more as companies focus on it.

Mr. GUARINI. Knowing how well the Japanese are structured and how concerned they are and how intense they are in their trading procedures, how is Japan set up, as opposed to what our Nation has set up, in treating this 1992 problem? How are they organized in dealing with the problem and posturing themselves?

Mr. MURPHY. I don't know specifically how they are set up on this particular issue. As we know, they do have very close relationships between the Government and various sectors of industry. I am quite sure there is a lot of very close give and take between the Government and various industries—and meetings.

As we have seen the reaction on the part of a lot of Japanese firms and industries, it has been to significantly increase their investment in the Community, fearing, as indeed many Community leaders say, a lot of these things are aimed at Japan. The way out for them is to invest, to be in the Community to avoid being caught if barriers do go up.

Mr. GUARINI. Do you have information on what Japan is doing and do you know whether it is being negated by the Japanese interest, if it is an opposing view?

Mr. MURPHY. We have some information on that, yes.

Mr. GUARINI. Do you have enough?

Mr. MURPHY. We will probably never have enough.

Mr. GUARINI. Are you able to understand what their problems are and how they plan to deal with 1992 effectively?

Mr. MURPHY. We hear from them that they will fight this or that issue. As to automobiles, for example, which are of critical interest to them, we are told they will fight any attempts by the community to put up barriers to auto imports. That has not come to push and shove yet, but the Japanese tell us if it does they are prepared to shove.

Mr. GUARINI. But we don't know their format or where they are going except in the overall winners and losers that are involved in the 1992 format?

Mr. MURPHY. Yes.

Mr. GUARINI. Is any effort being made to have a unified commercial code among the member nations of the EC and unify the accounting procedures so, when they do business, they are doing business on the same level and speaking the same language?

Mr. MURPHY. Let me ask Mr. Stoler to address that.

Mr. STOLER. There are aspects of the 1992 program as it has been laid out in the 1985 white paper that would deal with company law and accounting practices and the like, so that this is part of this effort.

Mr. GUARINI. Will they have a uniform commerce code, as we do? Is that an effort?

Mr. STOLER. We don't know enough about it yet to be able to answer that question.

Mr. GUARINI. The next question I would go into is whether or not we would develop some kind of standard procedures and accounting and commerce practices so that it becomes easier for our countries to be able to understand the trading laws and commerce contracts and dealing with the common market, since it is going to be one of the largest in the world.

Has any thought been given by the USTR regarding the standardization of accounting and commerce contracts?

Mr. MURPHY. I am not aware of any proposal we have had to pursue this.

Mr. GUARINI. But I think the world has to go in that direction if we are going to enlighten our people as to how to do business.

Mr. MURPHY. We will have to examine that.

Mr. GUARINI. On the dispute mechanism, has that been resolved? Have they resolved it between themselves, and how do we fit into the dispute mechanism as they have devised it?

Mr. MURPHY. You are talking about the dispute mechanism within GATT itself?

Mr. GUARINI. Not GATT, but have they set up a judicial process or dispute mechanism that would fully resolve all of their problems, and is there any way we could get into that dispute process if we have disagreement?

Mr. MURPHY. There is, of course, the European Court of Justice, to which member states have been and are taking disputes among themselves. It is also a venue where U.S. companies located there do have legal rights, so a company can take an issue into the European Court of Justice if it wishes.

Mr. GUARINI. Then our corporations, if they are offended, could be a party to an action before their courts over there as well as the World Court, which is only advisory, but I imagine they give up sovereignty to their system in the EC; is that correct?

Mr. MURPHY. That's right.

Mr. GUARINI. Thank you. Good luck to you.

Chairman GIBBONS. Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman.

In what areas are there now national quotas where you expect there will be community quotas?

Mr. MURPHY. There are several areas, and I should say there has been no official announcement——

Mr. LEVIN. Just your guess.

Mr. MURPHY. Informally we hear automobiles, consumer electronics, footwear, urea, and bananas.

Mr. LEVIN. Let's leave out bananas. You mentioned footwear and automobiles. Take the automobile sector. The rumors have been that there is some pressure for a community quota to be set, say, somewhat in the range of 10 percent. You have heard those rumors?

Mr. MURPHY. Yes, that is correct.

Mr. LEVIN. Is it our intention to discuss with the Community whether there should be any quotas at all, and, if so, what they should be?

Mr. MURPHY. Well, the Community first raised the possibility of such a quota in February 1988 in a speech that then Commissioner Willy DeClercq, Commissioner for External Affairs, made in France. At the time that came to our attention, then USTR Yeutter wrote to Mr. DeClercq saying that the existing national quotas on automobiles were for the most part considered by us GATT-illegal, and there was no GATT basis for the creation of an EC-wide quota for automobiles, and if they were to create one we would view it as a violation of their GATT obligations.

So we went on the record with a very strong message on that point.

Mr. LEVIN. That was a year ago. What is our strategy? Are we going to challenge those legally? Are we going to bargain? Are we going to participate in the bargaining on that subject in one way or the other?

Mr. MURPHY. In the ensuing year we have seen no further statements by Commission officials along the same lines as Mr. DeClercq's. We think going on record immediately has had a beneficial effect of scaring them off on this.

Mr. LEVIN. Are you saying you think there will be no European Community quota on automobile imports?

Mr. MURPHY. I think they recognize that we were right that an EC quota would be GATT-violative. They would be required to pay a large sum in compensation because the dollar volume of trade we are talking about is enormous.

There then were rumors that the Commission might be seeking a way around this by negotiating a voluntary restraint agreement with the Japanese. In discussions I have had with the Japanese, I have been told that this is not correct, they are not negotiating such a restraint.

We know the debate is raging in Europe. You can see public statements by both auto officials as well as member-state officials on different sides of this question. At the moment I think it is simply unclear where they are going to come out on this question.

Mr. LEVIN. Is our strategy clear? Is this Government committed to legal action if they embrace quotas of any kind?

Mr. MURPHY. Certainly any quotas that adversely affected our trade, yes, sir.

Mr. LEVIN. So if there is a quota on automobiles, we are going to file a complaint?

Mr. MURPHY. I should think so, yes, sir.

Mr. LEVIN. Is that stated administration policy?

Mr. MURPHY. I don't know if we have formally stated this before, but I think it has been clear from our posture on other issues.

I would again cite hormones; where they have taken action adverse to our interest, we acted very quickly and very firmly.

Mr. LEVIN. What is the legal status of the present national quotas? Are those GATT-legal?

Mr. MURPHY. It is my understanding, of the four or five which currently exist, probably only one is GATT-legal and the others are probably GATT-illegal.

Mr. LEVIN. Why hasn't our government taken action?

Mr. MURPHY. To my knowledge, we have never had a complaint from our manufacturers that they are affecting our exports. In all cases I believe they are directed against Japanese cars, not United States exports.

Mr. LEVIN. Does the restriction on Japanese exports to Europe affect the pressure of Japanese exports to the United States?

Mr. MURPHY. I have not seen evidence to suggest that it is doing that directly, no, sir.

Mr. LEVIN. Well, I will send you some. It is pretty clear that these dramatic restrictions over the years on imports to Europe from other countries have had an impact on the pressures to import or export to here. It is just common sense, I think.

I would appreciate your sending to the subcommittee a statement of explicit American strategy on quotas, and if there is not a publicly stated one but one that is developed but private within our Government, if you would notify the chairman of that.

Mr. MURPHY. I will be happy to do that.

[The information follows:]

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

June 20, 1989

The Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Gibbons:

When I appeared before the Subcommittee on March 20, 1989 to testify on the Administration's view of the EC single market initiative, I promised to reply in greater detail to two questions which were posed of me by Congressman Levin. Specifically, Congressman Levin asked me to provide the official Administration position with respect to potential EC-wide voluntary restraint agreements (VRAs) in the automotive or other sectors and, secondly, whether the Administration would be willing to undertake an examination of the potential effects on "EC 1992" developments on employment in the United States.

As to the first question, the Administration has taken the position that under no circumstances will new GATT-illegal barriers be accepted as a result of the 1992 exercise and we have informed the Community that any such erection of new trade barriers would draw a rapid response from the United States.

On the second point, the United States International Trade Commission (USITC) is currently conducting two section 332 investigations into the impact on EC 1992 initiatives on U.S. interests. One investigation is concerned with the broad impact of EC 1992 and the other is more specifically directed at the impact on the U.S. of liberalization in the so-called excluded sectors of public procurement. We expect that considerable information which could help to judge the 1992 program's impact on employment in the United States will be generated in connection with these reports and that we will shortly be in a better position to judge the merits of a full-scale employment effects study.

I hope that these explanations are useful to the Subcommittee in its evaluation of the Administration's position on the EC 1992 initiative.

Sincerely,

James M. Murphy Jr.

James M. Murphy, Jr
Assistant U.S. Trade Representative
Europe and the Mediterranean

cc: Congressman Levin

Mr. LEVIN. I have one last question.

There is a statement in the Washington Post today by the chairman of DuPont about building plants abroad, building in Europe. Has the USTR begun to develop an impact study, with the likely development of the Common Market 1992, of what the likely impact on jobs in this country would be?

Mr. MURPHY. We have not undertaken such a study at this moment. I can imagine that it would be a difficult thing to undertake. One would be hard pressed, I think, to say at this moment how it is going to shake out, that is, how much job creation will result from increased U.S. exports compared to how much you might lose because of changed location of investment.

Mr. LEVIN. Is there any concern about displacement?

Mr. MURPHY. I have not heard any expressed as yet. I don't have a sense, from conversations with our private sector advisers, that they have a feeling there is a great rush to move investment from this country to the EC. There is no question that some of the investment will result there, but I think people are also optimistic that it will open up new opportunities for investment from the United States.

Mr. LEVIN. You don't think it would be useful at this juncture for USTR to examine this issue?

Mr. MURPHY. I think it would be very difficult at this moment to come up with a reasonable assessment, given the great uncertainty. We don't have all the directives in place yet. It would be difficult for all companies to tell you today how their investment plans may be affected, since they have yet to see the final directives.

Mr. GUARINI. Will you yield for a moment?

Mr. LEVIN. Yes.

Mr. GUARINI. To further quote the statement from the Washington Post and to reiterate more or less what you were just trying to make as a point, "To reap the benefits of Europe 1992, many American companies will have to open up more plants and increase investments there, rather than count on exports. U.S. businesses and government experts say one obvious result is more jobs for Europeans, fewer jobs for Americans. 'What is good for business broadly may not be good for the country,' Richard Heckert of DuPont said. 'We will build our plants where they belong, and that is not always in the United States.' "

I think there is a great concern for what is going to happen to jobs and the plants and how this is going to affect our economy. I think my colleague from Michigan is on the mark. We should be doing studies and find out how this is going to impact our economy, jobs created in this country and shifted abroad.

Thank you.

Mr. LEVIN. Thank you very much, Mr. Guarini.

My question is asked because it seems to me we ought to be asking this question within the Government. I am not sure what the answer is, but I think what we don't sense here is a strategy.

I think Mr. Guarini's question about what the Japanese are doing is very salient. In other countries, what model are they following? It is one thing to say, well, MITI is careful about everything. But the resources that they are pulling together, in order for

us to gauge whether it is adequate or not, I would suggest that USTR at least take a look at whether we should take a look.

I think we should be realistic. You are not going to get complaints necessarily from American companies because many of them are embedded in the European Community. It doesn't mean that I don't think this is a golden or vast opportunity. It may be. But we need to have our eyes open and our heads looking and not just wait for somebody to complain, because if there is major job displacement in certain industries it may have a major impact on how aggressive we are vis-a-vis the European Community if they, for example, are for voluntary restraints. If they agree with the Japanese on a voluntary restraint of, let's say, 10 percent in the footwear industry, whether it is voluntary or involuntary, that has a major impact on the American market.

Thank you very much, Mr. Chairman.

Chairman GIBBONS. Let me ask you some questions about some European institutions.

What role does the European Parliament play in this matter now?

Mr. MURPHY. The Parliament, Mr. Chairman, as you know, has been assuming a larger role in this process. In the particular case of hormones, indeed it initiated it by passing a resolution for the Commission to take some action.

But it does not, as I think you know, play the same role as the Congress does in our system. It is evolving in that direction, but it is not there now. It has the opportunity to review directives and comment on them. It is not the initiator. The Commission is the initiator, but the Parliament has the opportunity to review and comment.

Chairman GIBBONS. What is the future role of the Parliament? Will it be changed by 1992? Will the action of 1992 change it?

Mr. MURPHY. I think we will see a movement of power toward the Parliament. It is the only elected body of the EC institutions today and therefore enjoys a larger respect. I think you will see greater power and authority in the Parliament as we go along.

Chairman GIBBONS. Do the almost 300 acts that have to be approved by the various nations over there have to be also approved by the Parliament?

Mr. MURPHY. The Parliament has a chance to review and comment, but the Parliament does not have the final approval. The Council has final approval.

Chairman GIBBONS. What role do the nation states have in this?

Mr. MURPHY. The member states play their role through the Council, which is composed of member state representatives at the ministerial levels. There are many councils.

Chairman GIBBONS. I understand that.

Mr. MURPHY. But these are ministers from the member states so that is where the member states still have a lot of their sovereignty preserved, in the Council itself. The Council, one could say, is more akin to our Congress in that it is the Council which passes a directive or law, if you will.

Chairman GIBBONS. After the Council passes a directive or law under this, what action do the nation states have to take?

Mr. MURPHY. The member states would then have to pass the necessary changes in their statutes to incorporate the content of that directive into their laws.

Chairman GIBBONS. When the parliamentary bodies of the nations act, do they act on precisely the same language or——

Mr. MURPHY. It need not be precisely the same words, but it must assure that the member-state statute is completely consistent with the directive.

Chairman GIBBONS. Then what is the role of the court over there in enforcing this? Does it enforce uniformity or does it enforce the law of, say, France or Germany? How does that work?

Mr. MURPHY. The Court enforces compliance with the Treaty of Rome and with Community-level legislation (the directives) and the laws of the member states implementing these directives.

To cite—I am trying to think of a good example—well, the case of hormones was taken to the Court of Justice on a technical procedural point by a member state which was in disagreement with the directive.

Chairman GIBBONS. What happened there? Did the Court require the state to conform?

Mr. MURPHY. The Court found there was a procedural problem here which was corrected by repassing a directive which was consistent. So we gained nothing from that, but it demonstrates that a member state can successfully challenge a directive in the Court of Justice.

There is a current challenge by several member states of the directive on terminal communications equipment, where several member states argued that the Commission did not have authority to act on its own. In this case they used article 90 of the Treaty of Rome. Rather than have the Council pass the directive, the Commission said we have the authority to enact this directive on our own.

What you are seeing here is an evolution of the power to the Commission itself. Several member states have challenged that because they feel such an accretion of power to the Commission that, while they may not object to this directive, they may in the future and they will have no authority to fight it. But they are challenging in the Court of Justice and the Court will render its decision on this.

Chairman GIBBONS. The Council, is it still acting by unanimous consent or has it gone to a weighted voting mechanism?

Mr. MURPHY. Under the single European Act, it has moved from unanimous voting to a qualified majority voting. So unanimity is no longer required to obtain approval of a directive.

Chairman GIBBONS. They have operated in that manner?

Mr. MURPHY. Correct. This is true except in the one area of taxes where unanimity is required. But except for that, the qualified majority prevails.

Chairman GIBBONS. How about automobiles?

Mr. MURPHY. That will be a close one. Several member states told us they are going to oppose a quantitative restraint on automobiles.

Chairman GIBBONS. How about an open market on automobiles?

Mr. MURPHY. If there were no quantitative restraint established, then there would be an open market. Several member states are dedicated to that proposition. Whether there will be a sufficient "blocking" minority to obtain that outcome remains to be seen. We think there is a good shot.

Chairman GIBBONS. Good shot for what?

Mr. MURPHY. That the blocking minority may prevail.

Chairman GIBBONS. In other words, it would take Italy plus another smaller state to act, wouldn't it?

One of the big five could. Let's see, as I recall, Germany has 10 votes and France has 10 votes and Italy has 10 votes. The United Kingdom has 10 votes. Then you drop down to five, somebody has five.

Mr. MURPHY. You need two big ones and probably one of the smaller ones.

Chairman GIBBONS. Two big ones and one of the small ones to block, correct?

Mr. MURPHY. That's correct.

Mr. LEVIN. Mr. Chairman, surely there will be a few nations that urge no restrictions because they don't have any now?

Chairman GIBBONS. Italy does.

Mr. LEVIN. Yes, but West Germany does not. Most of them do. I think for our country to assume that because a few are working for an open market that that is the likely outcome is deceiving ourselves, because the ones that want an open market already have it, but the nub of it is what is going to be done by those countries that have the severe restrictions that have kept Japanese automobile imports to about 10 percent of the market.

In the case of Italy, I think it is 1 or 2 percent.

Chairman GIBBONS. All right. You can tell they will be watching. We will be checking on you the best we can. Thank you very much.

Mr. MURPHY. Thank you, Mr. Chairman.

Chairman GIBBONS. Our next witness is from the American Express Co., Mr. Harry L. Freeman, executive vice president.

Mr. FREEMAN. Before I go into my oral comments, I wanted to mention that I would be happy to respond to some of the questions posed earlier as to the role of the private sector groups. If the Members want to question me on that, how lobbying is going in Brussels or what the Japanese are doing, I would be happy to respond.

Chairman GIBBONS. Good.

STATEMENT OF HARRY L. FREEMAN, EXECUTIVE VICE PRESIDENT, AMERICAN EXPRESS CO.

Mr. FREEMAN. While I am only a part-time economist, I am a full-time optimist and I see the proverbial glass as half full.

I also see the fortunes of my company—and the fortunes of the United States and the European Community—as tied up with the fortunes of the world economy. American Express depends on the free movements of goods, services, capital and people across as many frontiers as possible. We want the option to compete in as many markets as possible and believe that our competitors should have those rights as well. American Express' foreign policy is to

promote the freest possible trade. Open trade means enhanced prosperity and consequent peace, security, and economic growth and social progress. Our business thrives under those conditions and we work hard to bring them about.

U.S. foreign economic policy should be to seek commercial disarmament. After all, protectionist policies such as export controls and quotas cost our economy in the same way that tanks and missiles do. In several areas, we now have it within our power to achieve commercial disarmament and make great leaps forward toward a more prosperous and stable world in the 1990's.

First, on January 1, the United States-Canada Free Trade Agreement went into force—a massive breakthrough with our largest trading partner. Making sure that agreement works is vital to our interests.

Second, Congress recently passed comprehensive trade legislation designed to open markets, facilitate adjustment, and combat unfair trade practices. The omnibus trade bill will provide the U.S. Government with the tools necessary to promote and ensure and open world trading system.

Third, we are entering the third year of the 4-year Uruguay Round of the GATT. While much of the media panned the December Midterm Review in Montreal, the truth is that much real progress was made. We had tentative agreement on 11 of 15 areas, including trade in services, which incorporates financial services, where the GATT has never before had any rules. Achieving the most far-reaching and important trade round in postwar history is well within our grasp; we can't let it fail.

Finally, the focus of today's hearing, the European Community is now developing and issuing directives to reach a free internal market by the end of 1992. This is one of the great economic developments in our lifetimes. An economically enhanced Western Europe with higher incomes will benefit not only Europe but also the United States by way of our exports and investments there and the LDC's, which like us, will be able to export to a vastly growing market. The effort we must make is to ensure that the EC is open to outsiders and does not turn into a fortress Europe. This also is well within our grasp.

Before turning to the specific directives issued by the European Commission on financial services, let me make one final point: There is no doubt that in financial services we will continue to see rapid product innovation. In other words, we still don't know all of the products we would like to sell in the United States and the EC over time, simply because many of those products have yet to be invented. Consequently, the trade policies and the laws of the United States, the EC, and the GATT should be drafted in generic rather than specific terms in the expectation that massive product innovation will continue in financial services. Otherwise, U.S. laws, EC directives, and GATT rules run the risk of being outdated almost as soon as they're issued.

Now let me turn briefly to some of the proposed directives that have been issued by the EC on financial services. The Banking Directive is the basic model for other directives:

The key principle of this directive and the others in financial services is mutual recognition of home country regulation. This

means the EC will establish broad policy guidelines and then allow each country to adapt its own laws and regulations accordingly. As long as it follows EC guidelines, one member country's regulatory and supervisory regime will now be officially recognized in the other 11 member countries.

A firm in the EC will need only 1 license rather than 12 in order to: Open branches throughout the EC; sell its products across borders; and pursue throughout the EC all activities allowed by the legislation of its home country.

Consumers in the EC will be free to buy financial services in whatever market they choose.

Finally, the scope of banking is defined very broadly, ranging from lending to leasing to securities trading and underwriting. The expectation is that, through a process of competitive rulemaking, EC member states will gradually move toward similar systems of universal banking like those in Germany or the United Kingdom.

By and large, this is all very good news for consumers and companies.

Barriers in consumer financial services are among the highest of all industries in Europe, so their removal will produce significant potential benefits for consumers.

Firms will be able to rationalize internal operations and increase efficiency.

However, there is also some bad news:

We may see an increase in industry concentration and cartelization. So EC competition or antitrust policy will have to continue playing an active role to ensure that there is no abuse and no discrimination against foreign-based firms.

Also, protectionism against foreign-based companies may be a byproduct of liberalization inside the EC.

Our biggest concern about protectionism stems from the reciprocity clauses in the banking, investment services, and life insurance directives. According to the reciprocity principle, an institution based outside the EC will be permitted access to the European market only if its home country grants reciprocal treatment to all EC financial institutions.

This means that American institutions could be caught because the United States maintains barriers between commercial and investment banking and because we do not allow interstate banking.

The reciprocity proposal which was strongly supported in a recent vote by the European Parliament in Strasbourg, came as quite a shock to the foreign business community. Under the EC's constitution, a corporation, no matter where its parent company is based, has always been considered European if it is incorporated and does business in any EC member state. The reciprocity proposal raises the possibility that who is European may be determined by where the parent company is based.

I like to distinguish between reciprocity with a small "r" as opposed to a capital "R". The good reciprocity, the one with a small "r", is the negotiating principle which says that benefits should be roughly mutual over time. That is what it means in GATT. Then there is the other reciprocity with a capital "R". That means tit for tat, bilateral or sectoral automatic balancing. And that is dangerous.

The question is, how will the EC define reciprocity? The Commission has somewhat allayed our worst fears, but not all of them. It has moved away from mirror image reciprocity and said variously that reciprocity means equivalent access or equivalent freedoms or possibly effective market access including national treatment. However, the real meaning of these terms has yet to be clarified. Currently, signals from the community suggest that reciprocity may be applied in a discretionary manner rather than automatically.

The Commission has also decided that in banking at least, it will not apply reciprocity retroactively. So foreign-owned subsidiaries already established in the EC could not be deprived of their rights under EC law. However, this leaves open some very important questions.

What about newcomers?

What about an established company which wants to expand into a new business sector?

What about financial institutions other than banks?

The implementation of reciprocity is still being hotly debated in Brussels. We hope that the Community will decide that a Europe for the Europeans or a fortress Europe would not be in their, or anyone else's best interest.

Over time, of course, closing the European market to us would mean closing the U.S. market to Europe, a folly on both sides of the Atlantic. Like the EC, the United States too needs to enter and compete in European markets with the full range of our products and services. That means that the United States has to do the same, which is fine with us. If the playing field is level, we know we can compete and improve our market share.

I have said that it is well within our grasp to ensure that the EC remains open to outsiders and does not turn into a Fortress Europe. What do I mean by that?

What I mean is that U.S. business should and can shape the evolving policy of the Community. American business should take the initiative to work with the European Commission and member governments to shape the outcome of the internal market directives. The Europeans have already indicated that informal consultations with American business are welcome, and my own company and many others are taking them up on that.

Of course, the U.S. Government also has a role to play. Washington and its outpost need to keep the EC honest on major trade issues like reciprocity. In fact, strong U.S. Government opposition to the reciprocity proposals has encouraged the community to think again. The U.S. Government should also stand ready to help American businesses negotiate with the Community in individual cases of trade discrimination. The Government should help provide information to those companies that do not have a significant presence in Europe, especially small and medium size businesses, which do not have sufficient resources to keep abreast of developments. And the United States needs to push forward in the Uruguay Round to keep up the pressure on Europe to open its markets to the outside world, not close them.

In short, the issue of 1992 needs to be on the agenda in Washington, not as a crisis, or as a reason for panic or retaliation, but as a subject requiring high level attention.

After all, if we and our trading partners take the appropriate moves in the next few years, we could all benefit from a massive world economic boom in the 1990's.

Paradise for the United States, and for American Express, would be, by the end of 1992: a truly open Common Market; a completed Uruguay Round that expands GATT's scope to new areas and strengthens the organization itself; a realization of contemplated gains in both the United States and Canada as a result of the Free Trade Agreement; a completely open Japanese market; a large number of thriving countries in East Asia; true economic advancement in the People's Republic of China; and increased trade and investment in Eastern Europe and the Soviet Union in a secure and open environment.

Over the long term, I believe these goals are all well within grasp. Our company is working toward them. They are not futuristic dreams. They are all on the table, right now. The perennial glass is half full, not half empty and these opportunities must not be lost. Let's go for it.

Thank you very much. I will be happy to try to answer questions.

[The prepared statement and attachment follow:]

Harry L. Freeman
Executive Vice President
American Express Company

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to testify on the European Community's internal market program in financial services.

The American business community is paying close attention to developments in Europe. For example, the Business Roundtable has been particularly active. Last month its working group on Europe 1992 issued a detailed set of recommendations on developing a U.S. government policy response. The thrust of the report -- I have a number of copies here -- is that the U.S. economy will benefit from a strong, market-oriented, unified Europe, but that the U.S. government has to keep the pressure on to ensure that American companies aren't discriminated against. Many other business organizations are also studying developments in Brussels.

Creating an internal market in financial services is one of the central elements of Europe's 1992 program. The E.C. has already adopted directives on mutual funds (UCITS), capital movement, and property/casualty insurance. Draft directives have been issued on banking, investment services, and insurance. And 1989 will see new directives on capital adequacy and conduct of business rules. There is absolutely no doubt that the EC will succeed in creating an internal market in financial services -- if not by 1992, then certainly within a few years.

Open Trade and American Express

Now, I'm not only a part-time economist, but I'm also a full-time optimist. It may sound corny, but I see the proverbial glass as half full -- not half empty.

I also see the fortunes of my company -- and the fortunes of the U.S. and the European Community -- as tied up with the fortunes of the world economy. American Express depends on the free movement of goods, services, capital, and people across as many frontiers as possible. We want the option to compete in as many markets a possible and believe that our competitors should have those rights as well. American Express' foreign policy is to promote the freest possible trade. Open trade means enhanced prosperity and consequent peace, security, and econmic growth and social progress. Our business thrives under those conditions, and we work hard to bring them about.

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Financial Services Directives

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- Finally, the scope of banking is defined very broadly, ranging from lending to leasing to securities trading and underwriting. The expectation is that, through a process of competitive rule-making, EC member states will gradually move toward similar systems of universal banking like those in Germany or the UK.

Impact of Internal Market

By and large, this is all very good news for consumers and companies:

- Barriers in consumer financial services are among the highest of all industries in Europe, so their removal will produce significant potential benefits for consumers.

- Firms will be able to rationalize internal operations and increase efficiency.

However, there is also some bad news:

- We may see an increase in industry concentration and cartelization. So EC competition or antitrust policy will have to continue playing an active role to ensure that there is no abuse and no discrimination against foreign-based firms.

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The implementation of reciprocity is still being hotly debated in Brussels. We hope that the Community will decide that a "Europe for the Europeans" or a "Fortress Europe" would not be in their -- or anyone else's -- best interest.

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Business Strategy

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Of course, the U.S. government also has a role to play. Washington and its outposts need to keep the EC honest on major trade issues like reciprocity. In fact, strong U.S. government opposition to the reciprocity proposals has encouraged the

Community to think again. The U.S. government should also stand ready to help American businesses negotiate with the Community in individual cases of trade discrimination. The government should help provide information to those companies that do not have a significant presence in Europe, especially small and medium-size businesses, which do not have sufficient resources to keep abreast of developments And the U.S. needs to push forward in the Uruguay Round to keep up the pressure on Europe to open its markets to the outside world, not close them.

In short, the issue of 1992 needs to be on the agenda in Washington -- not as a crisis, or as a reason for panic or retaliation, but as a subject requiring high-level attention.

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THE UNITED STATES AND THE EUROPEAN COMMUNITY'S SINGLE MARKET INITIATIVE: AN ANALYTICAL FRAMEWORK

The European Community's Single Market Initiative (the "1992 Program") is both critically important and extraordinarily complex for the European Community as well as its trading partners.

This framework discussion paper is not intended to be definitive. Rather, its purpose, at this formative stage of developing an appropriate U.S. policy response, is to facilitate understanding of the 1992 Program in the United States, and to promote the development and implementation of constructive responses by the U.S. government and the U.S. private sector.

The paper is divided into four sections: (1) basic principles for guiding the development of U.S. policies; (2) recommendations to enhance the U.S. government's ability to address the 1992 Program; (3) an overview of the significance of the 1992 Program for the United States; and (4) a preliminary overview of priority issues.

The Business Roundtable intends to supplement this paper with consultative meetings between U.S. industry and the U.S. government (the Executive Branch and the Congress), and with more detailed papers on key issues as they develop.

I. BASIC PRINCIPLES FOR U.S. POLICY DEVELOPMENT

The Business Roundtable believes the following basic principles must guide the development of U.S. policies:

A. A stronger Europe is in the long-term U.S. interest. The U.S. economy will benefit from a strong, market-oriented, unified Europe because our economies are so integrated. Furthermore, a stronger Europe could lead to a greater willingness in Europe to share more defense and other security related costs. Thus, the United States should encourage the progress of the 1992 Program.

B. U.S. industry can benefit from a nondiscriminatory 1992 Program. U.S. industry is able to compete with a stronger European Community. Thus, the emphasis by the United States should be on improving our competitive position rather than jeopardizing it by overreacting to the 1992 Program.

C. In supporting the 1992 Program, the United States should also ensure that its own economic interests are not compromised. In the past, as experience with the Common Agricultural Policy demonstrates, particularly with respect to the enlargement of the European Community, the United States has permitted perceived foreign policy and national security interests to override long-term U.S. economic interests.

D. The European Community should not increase protection or enact discriminatory policies under the guise of the 1992 Program, nor should it continue in effect those measures inconsistent with GATT principles. The European Community statement on the external implications of the 1992 Program provides some encouragement that the 1992 Program will not result in a "Fortress Europe". However, the debate in the European Community reveals a variety of pressures on the European Community to consider protectionist and discriminatory policies.

E. Since the 1992 Program is not yet complete, it is premature for either the U.S. government or the U.S. private sector to consider anticipatory legislative or administrative proposals which incorporate retaliatory or mirror-image actions. It is more constructive to focus on influencing the direction of the 1992 Program through a comprehensive dialogue with the European Community.

II. RECOMMENDATIONS

A. The U.S. government must assess as soon as possible the linkages between the 1992 Program and the Uruguay Round of Multilateral Trade Negotiations (the "MTN"). There should also be closer coordination between the U.S. Mission to the European Community and the U.S. Mission to the GATT so that the linkages are identified and acted upon in a timely manner.

B. The U.S. Mission to the European Community should be expanded so that the 1992 Program can be scrutinized in greater detail and in a more timely manner.

C. Both the Executive Branch and the Congress should emphasize the development of up-to-date, high quality information and analysis on the 1992 Program.

D. Additional resources should be devoted to the U.S. government's outreach program on the 1992 Program for

smaller U.S. companies, whose resources to anticipate and handle potential problems or to capitalize on opportunities are more limited than those of larger U.S. multinational companies.

E. The proliferation of U.S. government departments and agencies dealing with the 1992 Program requires careful coordination of consultations with the Congress and the private sector, and of the Executive Branch's decision-making process.

III. IMPLICATIONS FOR THE UNITED STATES

A. The 1992 Program in Brief

The blueprint for the 1992 Program is the Commission's 1985 White Paper on Completing the Internal Market, a collection of some 275 proposals considered most critical to integrating the Community market to the point that nontariff barriers to intra-European Community trade are minimal.

The White Paper envisioned ambitious harmonization measures in areas as diverse and important as: technical standards; health and sanitary controls; taxation and border controls; public procurement; sectoral programs (automobiles, banking, energy, food, insurance, pharmaceuticals, telecommunications); company law (accounting, management structure, mergers, acquisitions); intellectual property rights; advertising; and capital movements.

Approximately 50% of these measures have been fully adopted, 40% are midway in the legislative process, and 10% are likely to emerge in the near future. Thus, the process is well advanced. Only a few key proposals have not yet been fully articulated. These involve, however, some of the toughest decisions.

B. The Importance of the 1992 Program to the United States

The European Community is a key market for U.S. companies. U.S. direct investment in the European Community was an estimated $122 billion in 1987, or about 40% of total U.S. direct investment abroad. U.S. merchandise trade in 1987 was $60 billion or about 24% of total U.S. exports; and U.S. service exports were $17 billion or about 29% of total U.S. exports.

It is also important to recognize that the stakes for the United States go beyond the economic sphere. The European Community shares and promotes our fundamental democratic values; and the Member States are critical to U.S. global security interests.

The 1992 Program is also significant for the United States from two other international perspectives. First, it is consciously designed to make the European Community fully competitive with, or more competitive than, the United States and Japan. While U.S. industry welcomes competition in the global marketplace, a watchful eye is necessary to ensure that it is fair competition.

Second, developments in the European Community have a definite spill-over effect. This is most readily apparent in, but not necessarily limited to, the Member States of the European Free Trade Association (EFTA). EFTA members have been aligning their business laws with those of the European Community, and are likely to accelerate this process as a result of the 1992 Program.

In addition, both the European Community and EFTA are seeking to expand their "special relationship." From EFTA's perspective, this is necessary to ensure that they are not shut out of the European Community market. From a U.S. perspective, it is essential that the expansion of the "special relationship" does not place non-European exporters and investors at a competitive disadvantage. For example, EFTA members might be given a greater role in the development of European Community standards or simplified customs procedures.

The projected departure of key EFTA members (Austria, Norway, and ultimately Sweden) to join the European Community also means that what happens in Brussels will influence all of Europe.

IV. PRIORITY AREAS: A PRELIMINARY OVERVIEW

A. The Trade Policy Coordination Challenge

The most immediate challenge the 1992 Program poses for the U.S. government is to properly manage the convergence of the 1992 Program with the MTN. Each has an important influence upon the other. Failing to understand and anticipate the cross-currents will seriously

impair the U.S. government's ability to positively influence the outcome of both initiatives.

It is imperative that the U.S. government swiftly identify and chart these intersections. To ensure its on-going effectiveness, the resulting matrix should be revised periodically after careful consultation with the U.S. private sector.

Some of the intersections are readily identifiable:

- European Community plans for procurement (particularly expansion to include water, transportation, energy and telecommunications) are directly related to the GATT Code on Procurement;
- European Community banking, insurance, investment services and professional qualifications directives directly affect the MTN services negotiations;
- European Community proposals on intellectual property are directly related to the MTN negotiations on trade-related aspects of intellectual property (TRIPs); and
- European Community discussions on local content relate directly to MTN negotiations on trade-related investment measures (TRIMs).

In addition to the more easily identifiable GATT issues, the U.S. government should be alert to those issues which fall into gray areas. For example, the current debate between the United States and the European Community over meat hormones is likely to be the first of several conflicts over environmental, health and safety regulations. The 1992 Program and the MTN provide an opportunity to develop rules and procedures in these areas to enhance trade expansion and reduce trade frictions.

B. "Fortress Europe": Myth vs. Reality

While no part of the 1992 Program is, at present, overtly protectionist, the U.S. government must remain alert to that possibility.

The U.S. government should continue to resist strongly any efforts by the European Community to include market restricting or discriminatory elements under any guise in the 1992 Program. The infiltration of such policies into the 1992 Program would be detrimental to U.S.

economic interests, and a serious set back for the MTN and the future of the multilateral trading system. The next several years will reveal whether the concept of "Fortress Europe" is myth or reality.

Potential problem areas include:

1. Quantitative Restrictions on Select Sectors at the European Community Level. In recent speeches and in its statement on the external implications of the 1992 Program, the Commission has considered the idea of shifting existing quantitative restrictions from the national to the Community level. This concept has several inherent problems, ranging from product definitions to implementation, including whether the new quantitative restrictions would be GATT-legal. It could be an even greater problem for U.S. exporters and U.S. firms with assembly plants in the European Community. For example, if new quantitative restrictions are integrated with the highly restrictive local content requirements and rules of origin now under consideration, Community-level quantitative restrictions could significantly restrict market access for both U.S. exports and products produced by European-based U.S. subsidiaries.

2. New Restrictions in Areas under Discussion in the Uruguay Round. The Commission has indicated that in areas not currently covered by GATT, such as services, TRIPs, and TRIMs, the European Community feels that it is free to adopt measures necessary, on a "temporary" or "transitional" basis, to help consolidate the Internal Market. If this approach involves the adoption of market restrictions or discriminatory practices, the MTN would be seriously undermined and other countries encouraged to take similar measures to gain negotiating leverage.

3. Local Content. The evolution of a variety of European Community proposals -- including the latest proposal on procurement, rules on how integrated circuits would obtain free market access in the European Community, and the debate over the definition of what constitutes a "European" product if it is produced by a foreign subsidiary in Europe -- indicates a clear preference for local content requirements. The expan-

sion of the European Community's antidumping law to include products assembled in Europe as well as third countries, when combined with more restrictive rules of origin and local content requirements, could place U.S. companies and their foreign subsidiaries at a distinct competitive disadvantage. The pursuit of such initiatives erodes support for the GATT in general and the Uruguay Round in particular.

C. Reciprocity, Most-Favored Nation and National Treatment

The European Community statement on the external implications of the 1992 Program leaves open the option of making reciprocity a condition for granting national treatment to exporters and investors, but it does not define reciprocity. Reciprocity is a feature of the Second Banking Coordination Directive, the Investment Services Directive, and the Life Assurance Directive. It could also surface elsewhere. Indeed some Member States are known to favor an expansion of the reciprocity approach.

The U.S. government should continue to resist without qualification any treatment of U.S. exporters and investors which is less than national and most-favored-nation (MFN) treatment. To do less would undermine progress we have made in the GATT and the OECD, particularly in investment policy.

The issue of reciprocity has three key components: (1) treatment of companies of U.S. parentage seeking to establish in the European Community or to convert their European Community branches into subsidiaries; (2) treatment of companies of U.S. parentage already established in the European Community that wish to establish or expand into new lines of business; and (3) treatment of U.S. companies exporting to the European Community without a European Community base.

1. Treatment of Investment

With the exception of those sectors where the Commission has explicitly mentioned reciprocity, little has been said about whether new investors seeking access to the European Community market will be guaranteed nondiscriminatory treatment. The European Community Member States have obligations in this area under various OECD instruments and Treaties of Friendship, Commerce

and Navigation. Treatment, however, is far from harmonized, and the obligations are not as binding as they could be.

With respect to firms of foreign parentage already established in Europe, the Commissioners have said on many occasions that such firms should not experience any problem with the 1992 Program. However, initiatives by European industrialists and some governments to introduce, for example, tough local content rules, redefine rules of origin, and exclude subsidiaries of U.S. firms from European Community-funded R&D projects, demonstrate clearly that the new Commission is under some pressure to discriminate. Certain companies, particularly those in the service sector, may also face additional discriminatory requirements when they attempt to invest or expand into new areas.

2. Treatment of U.S. Exports

Exporters to the European Community without a Community base may not necessarily receive the national and MFN treatment guaranteed by the GATT. The European Community is currently engaged in a dialogue with EFTA about the possible expansion of "special arrangements" in a host of critical areas, such as rules of origin, procurement, and dumping. This exercise should be monitored closely.

D. Specific Areas

There are several specific areas in which U.S. business is already engaged in a dialogue with European Community officials. These are areas in which the U.S. government should be vigilant to opportunities to facilitate the task of the business community.

1. Financial Services. The central problem facing U.S. suppliers of financial services in Europe is one that has already been alluded to: reciprocity. So far, three proposals (the Second Banking Directive, the Investment Services Directive, and the Life Assurance Directive) contain a reciprocity provision. Under this formulation, a financial institution based outside the European Community will be permitted access to the Community market only if its home country grants

reciprocal treatment to all European Community-based financial institutions. Reciprocity is likely to be included in other financial services directives as well. U.S. financial institutions could be caught in this net because the United States does not have universal banking and still maintains barriers between commercial and investment banking through the Glass-Steagall Act. The United States could also be caught because we do not have interstate banking.

The fundamental question is: How will the European Community define reciprocity for financial services? The Commission recently moved away from mirror-image reciprocity, stating variously that reciprocity meant "equivalent access" or "similar opportunities." However, these terms also have yet to be defined.

The Commission has decided that, in the banking sector, it will not apply reciprocity retroactively. Therefore, foreign-owned subsidiaries already established in the European Community should not be deprived of their rights under existing European Community law. However, this leaves open some very important questions:

- What about newcomers?
- What about an established institution which wants to expand into a new business sector?
- Does the ban on retroactivity in banking apply equally in other financial services sectors?

These issues are currently being hotly debated within the European Community. The U.S. government can play an important role by keeping pressure on the European Community to rely on the principle of national treatment and to forgo the inclusion of reciprocity provisions.

2. <u>The Decentralized Approach to Setting Product Standards</u>. Standards are critical. Not only do standards determine what is legally allowed to be sold in the market from a health, safety, and technical compatibility perspective, but several European Community measures -- notably the procurement directives -- hinge on products meeting "Euro-standards."

The 1992 Program is an important catalyst in promoting harmonization of product standards in the European Community as well as globally. The worry persists, however, that "Euro-standards" may become a cover for blocking U.S. and Japanese products.

In order to capitalize on the harmonization opportunities in Europe, U.S. companies need to overcome several critical organizational and procedural problems. First, many U.S. firms do not understand how the European standard-setting bodies operate. Second, the agendas of the European standard-setting bodies are packed to the point that industry is having a hard time monitoring the standards. Third, although some U.S. companies have been able to participate in the process through their involvement in various business advisory groups, there is no direct voice in the European standards bodies for companies or trade associations based outside Europe during the all-important formative stages of standard-setting.

One area where the problem is particularly notable concerns telecommunications standards. Not only will suppliers of equipment be effectively shut out of the European market if they do not meet the new standards, but the choice of equipment and services open to users will be determined by the standards set. In this latter case, users -- both European and non-European -- have a particularly limited voice in the European telecommunications standard-setting process.

These problems are, at this point, not necessarily the result of any discriminatory action by the European Community. In some instances, U.S. companies simply need to develop better information and to pursue aggressively, through their European subsidiaries, opportunities to participate in standard setting.

However, in other cases, problems arise from procedural shortcomings in the European standard-setting process. In order to facilitate the participation of U.S. subsidiaries in standard setting, and to prevent discrimination, the U.S. government should encourage the European Community to create a more open environment in the standard-

setting bodies. The U.S. government should also work with the European Community to expand the consultative role of the international standard-setting bodies (such as ISO and Codex Alimentarius). Mutual recognition of test data for the purpose of testing and certifying equipment is also a key element in assuring that standards are not used as nontariff barriers. Finally, the U.S. government should carefully evaluate the European Community's standard-setting process in the context of the GATT Code on Standards, and whether the Code needs to be expanded or clarified.

3. Procurement. The key issue for both non-defense and defense related industries is to ensure that emerging European Community liberalization rules do not unfairly favor "European" (including EFTA) vs. "non-European" firms, and otherwise discriminate against "non-European" signatories of the GATT Code on Procurement. Particular attention should be paid to the linkage of procurement liberalization to "European" technical standards, negotiations between the European Community and EFTA for a special arrangement in this area and local content provisions.

   The U.S. government should carefully analyze these developments in the context of the GATT in general, and in particular the GATT Code on Procurement and current efforts in the MTN to expand the Code's coverage.

4. Environment, Health and Safety. The current debate between the U.S. and European Community over hormones in meat may be just the start of a series of trade battles the European Community will have with its trading partners under the guise of health and safety. As a result of increasing Commission involvement in setting health and safety standards in areas as diverse as electronic products and food, nontariff barriers to U.S. products may proliferate.

   These issues will be difficult to address. European Community law permits limited use of trade barriers in the interest of environmental protection and public health and safety. GATT is not as clear as it could be on the limits and remedies to such exceptions, and governments often

do not agree on the scientific foundations which prompt the regulatory action in the first place.

The U.S. government should monitor developments to ensure that environment, health and safety standards are not used as a means to erect non-tariff trade barriers. The U.S. government should also explore the possibility of expanding and clarifying the relevant GATT rules during the MTN. In addition, where appropriate, existing bilateral agreements should be utilized or expanded.

Chairman GIBBONS. We have a lot of questions. I hope we have enough time.

What do you mean by fortress Europe? What do you see emerging out of this so far?

Mr. FREEMAN. What I mean by fortress Europe in general, Mr. Chairman, is the attitude of some European officials and citizens, and I want to underline the word "some" not all and probably not a majority, who feel their coming together with a common market creates an opportunity for them which they would not want to make available for other people. Or they feel foreigners outside the Common Market should pay some dues or a price to have equal access to that market.

Chairman GIBBONS. Has there been any of that so far?

Mr. FREEMAN. No, because the directives are just starting to come in to force. There has been a lot of hot rhetoric coming from Brussels by some, repeat, some, along these lines.

Chairman GIBBONS. What actions do you fear the most?

Mr. FREEMAN. I think if we saw a strict reciprocity regime in which the Commission said my company and other financial institutions, other nonbanking financial services companies, were prevented from using a charter we have in the United Kingdom to do business in France and Italy.

The Commission could say we won't allow you to do that, because in the United States your laws are not the same as ours. They could use that artificial barrier to prevent us and other American companies from doing business.

We think that is a possibility. We don't think it is a probability because we think frankly that cooler heads will prevail.

Chairman GIBBONS. Being the devil's advocate for a while, what is wrong with that?

Mr. FREEMAN. The problem is that it would lead ultimately to a group of trading blocks and reduced prosperity.

The United Sates and Canada could become a trading block shutting our European goods and services. Then Japanese and East Asia could do it. That is the route to less economic and national security. I happen to think and feel very strongly that the best, most secure world we have is an economically interdependent world.

I think the GATT system with all its flaws is currently the best regime we have for maintaining prosperity and peace at the same time.

Chairman GIBBONS. European banking laws apparently are much more generous as far as banking powers are concerned than our banking laws, correct?

Mr. FREEMAN. In some respects. In others, it is not. In the United States, the consumer has many more products to choose from than in Europe. We have CDs, annuities and all kinds of products that are unheard of in Europe, whereas the powers that European banks have to do both underwriting of securities and commercial lending, are for the most part not available to American Banks.

American banks and financial institutions are allowed however to create a lot of different kinds of products that are unknown in the European market.

I personally think the European markets in terms of financial services are underdeveloped. There are a lot of products that my company and its competitors sell in the United States that are not now sold in Europe. We hope to sell some in the future.

Chairman GIBBONS. Why are you not permitted to sell those? Is it national regulation?

Mr. FREEMAN. Some products we can now sell. Others are constrained by national level of regulation. Banking laws in Europe generally are restrictive on products but not restrictive on general powers. Also, we have to realize in the world of banking the United States' structure is very old. We have over 16,000 independently owned banks plus another 70,000 plus non-bank financial companies that are independently owned. In the other developed countries, Europe, Canada, Japan, there is a small number of very, very large banks.

There are three commercial banks in Germany, France has four and Canada has six large chartered banks.

The general mentality of the past and present, although it is changing in Europe, tends to be somewhat toward the cartel type of thinking. We don't have that in the United States particularly.

We are all out there competing, but there is no one, two or three banks that dominate the United States.

We are very competitive in our mind set in the United States. The rest of the world does not have the mind set the American companies have.

Chairman GIBBONS. How many banks are in the United States?

Mr. FREEMAN. Over 16,000 independently owned banks.

Chairman GIBBONS. Suppose each one of those 16,000 went to Ireland and said we want to open a bank here. Then they want to spread from Ireland to all the other 12 countries, would that be possible under the scenario you hope to see?

Mr. FREEMAN. I think the option in entering a market includes the option to fail. If you enter a market and you don't do a good job for one reason or another, you lose money. Hypothetically if 16,000 banks went to Ireland, I think there would be a large attrition rate, but theoretically I think we should have that option.

Chairman GIBBONS. Do you think we are ready to go that far in this country? Are we going to let the big foreign banks into this country?

Mr. FREEMAN. They're already here and I think they add a competitive factor. I think it is good that they are here, and I think it is good that we should be there.

Chairman GIBBONS. I am not really sure what we are afraid of, really. In all of this, would you repeat for me again what the bankers fear will happen in Europe?

Mr. FREEMAN. That they may not be allowed to set up their banking operations throughout the common market if a strict reciprocity test is applied either against one bank or a group of banks.

Chairman GIBBONS. Because——

Mr. FREEMAN. Because if the European Commission adopts strict reciprocity they then have the power to say to my company, Citicorp, Bank of America or a regional bank from North Carolina or Florida that you can come to one country, but you cannot go to the other because our bank from Germany that is in New York cannot

go to Illinois. And it cannot underwrite securities. If you are in the banking business of the United States, you cannot underwrite securities.

They could say, well, if you don't give us the right to do in the United States what we can do in Germany, then we will not allow the American banks to do what our banks can do at home.

The principle in GATT is you come to the United States, you do what the United States does. In Germany you do what is done in Germany.

Chairman GIBBONS. That appears to be true in everything but hormones.

Mr. FREEMAN. The issue is whether or not reciprocity will prevail over national treatment. National treatment is the more fair way.

Chairman GIBBONS. They are taking that position in hormones, as I see it.

Mr. FREEMAN. I am not in the hormone business.

Chairman GIBBONS. The bankers are saying they want national treatment but we are not willing to take national treatment in the hormones dispute. That is apparent.

Mr. FREEMAN. I know people in the hormone business who think differently.

Chairman GIBBONS. The EC has banned the use of hormones in the communities. They said they won't import U.S. beef because we use hormones in our meat, but when it comes to banking, we don't give a damn about hormones.

Mr. FREEMAN. In the hormones case, the United States position is, it questions the legitimacy of the hormone directive from the Common Market, as to whether it is meant as a hormone preventive or exclusionary principle, or whether it is really an artificial trade barrier. That is a question of fact. The United States has tried to get the GATT to rule on it. The EC barred——

Chairman GIBBONS. What I am thinking about is the European Community has banned the use of hormones in the production of meat in its own Community. Not only from outside sources but from inside sources.

All of that is a violation of our—I don't know what it is a violation of. When it comes to banking, it appears that you are saying that the Europeans should treat us differently than they should be treating us in meat. We should get national treatment on banking, but not in hormones.

I think your bankers ought to be paying attention to the hormone dispute. You are getting slaughtered on—pardon the pun—you are getting slaughtered on your principle of national treatment for the banking industry.

Mr. FREEMAN. I have exhausted my expertise on it before the Ways and Means Committee.

Chairman GIBBONS. I don't know how America can claim national treatment on banking, and not admit we are entitled to national treatment on hormones.

Mr. FREEMAN. If the hormone directive is really a bona fide exclusion of hormones, then I would agree with you, the question is whether it is a bona fide exclusion of hormones for health reasons.

Chairman GIBBONS. You mean they are going to cheat?

Mr. FREEMAN. I believe the United States position is, the Government's position——

Chairman GIBBONS. That the Europeans are allowed to cheat when it comes to hormones?

Mr. FREEMAN. No.

Chairman GIBBONS. That is what it sounds like to me. I am trying to save some banking powers. Looks like you all are ignoring basic arguments on national treatment that the Europeans are making on hormones. It sounds as though we and the Europeans are treating banking and hormones differently with respect to national treatment.

They ban hormone use in the European Community. Therefore, they have to ban imports of meat treated with hormones. That is the way I understand their argument.

We say, no, that doesn't work. We don't want that. You now say you are going to insist on national treatment on banking. Isn't that inconsistent?

Mr. FREEMAN. I can't discuss the hormones more than I have.

Chairman GIBBONS. I think you better look at it, Mr. Freeman, because I think we are walking into a trap on hormones. I think the business community ought to take a careful look at it.

You said you wanted to explain to the committee what the Japanese are doing on all of this?

Mr. FREEMAN. The question was asked to the Ambassador from the USTR. The Japanese operate through trade associations and the Federation of Trade Associations.

They are not particularly noticeable in Brussels right now, whereas the American interests are quite prevalent. One interesting thing that I have noticed is that the United Kingdom, France, and Germany, if my impression is correct, do not enact trade laws like we do.

No doubt we recall the work done in the Omnibus Trade Act of 1988 over the last 3 years and before that the various trade bills where Congress introduces the legislation and the lawyers examine the bills and a lot of lobbying goes on, and so forth. We have an open process. That is now the process in Brussels. These 280 odd directives are coming out.

They are extremely long and are coming out in draft form. If there is one thing, I think, Americans are pretty good at, it is the law business and the lobbying business.

The largest growth business in Europe, as a matter of fact, is representing Americans in Brussels. Consequently I think we are doing pretty well in pointing out problems in these early drafts of the 280 odd directives coming out of the Brussels EC Commission.

The Japanese basically are, have not been in the international, frankly, the lobbying business. I think they will show up sooner or later. Right now the process in Brussels is extremely open. The Commissioners and staff members of the Commission are quite available. It is very, it is a very similar to Washington.

It is quite different from the GATT capitals where there are few trade laws. I think we are doing pretty well.

I notice that a lot of American corporations have opened up Brussels offices to work on these issues. I think that will double or triple each year.

Chairman GIBBONS. The employment of lawyers in government relations, government relations specialists in Brussels is a growing business?

Mr. FREEMAN. It is extremely rapidly growing.

Chairman GIBBONS. We have a surplus here.

Mr. FREEMAN. The lobbying contingency of the Omnibus Trade Act of 1988 has moved to Brussels for 1992 in mass.

Chairman GIBBONS. Thank you.

Mr. Crane.

Mr. CRANE. No questions.

Chairman GIBBONS. Frank.

Mr. GUARINI. Thank you, Mr. Chairman.

Thank you, Mr. Freeman, for your comments. We are going to have a lot of winners and losers in this 1992, aren't we, like we had it with the tax code and the trade law and everything else?

I assume American Express and ITT and GE and AT&T with the payroll positioned in Europe, they are going to be winners. There are a lot of computer chip companies, auto firms and probably high technology firms which may not get through the doors that may end up being losers.

Do you find that ones that are already entrenched in Europe are well represented with law firms and lobbyists, and yet there is a big unspoken business area that is not with appropriate accoutrements with regard to law firms, et cetera?

Mr. FREEMAN. I think what you see is an extension of what we have in Washington, where we have 6,000 different trade associations, many of which are devoted to smaller businesses which pool their financial resources to retain counsel, lobbyists in Washington. Those are branching into Brussels.

The smaller, say, manufacturer of electronics belong to the witness next coming up. The National Federation of Independent Business in Washington is one of the largest trade associations.

I think the trade association field is highly developed in the United States and quite professional. It has quite a significant presence and a growing presence in Brussels.

Mr. GUARINI. We have millions of small businesses in our country. I know the large companies have high powered lawyers and accountants and advisers, such as your company does, and ought to be successful. Are the small companies in America being disadvantaged at all?

Mr. FREEMAN. I don't think so.

I think that if we, if the larger companies are successful in keeping the Common Market open, the openness will be afforded to any size American company.

Mr. GUARINI. Except you can be grandfathered in. You knew ahead of time by your business consultants that you should go there and buy up corporations and plan for the future. Many of them are on base.

They are busy making a living, and they are caught asleep. I am just wondering whether or not these people are ever going to be able to get on base.

They are not grandfathered in. They don't have money and corporations that they have purchased or have made an entry into the Common Market.

Aren't they going to have a hard time getting themselves heard?

Mr. FREEMAN. I think—no.

I am inclined to disagree with you. I think that grandfathering is not an option in this particular exercise. What I have seen American companies do either together or singly and through the advisory committees of the USTR—and I sit on one—has been to work for the benefit of all companies.

In the Services Policy Adviser Committee meeting the other day, which is chaired by the chairman of Citicorp, we met with Trade Ambassador Carla Hills for a couple of hours on this exact subject. The feeling in that group which is drawn from all sizes of business was that if you can't get a really strong GATT agreement, then the services firms of all sizes, then don't get one.

Get a good one, a broad one or you don't get one at all.

Mr. GUARINI. Do you think our Government is doing enough for our business community at this time and making this alert and aware of the magnitude of what is happening in 1992 and helping them to posture themselves?

Mr. FREEMAN. Yes. I think they rely reasonably on the media. I think the whole subject of the Common Market 1992 has come over the horizon very rapidly.

I think there seems to be a conference every 10, 2, and 4 on it.

Mr. GUARINI. I guess, should our Government do more?

Mr. FREEMAN. I think the problem we are going to have is reflected in what came up earlier this afternoon where you have a number of executive branch agencies responsible. The U.S. Trade Office is responsible for some.

Agriculture is responsible for agriculture. Commerce is going to be responsible for some of the action.

Treasury, the same way. I hope that the executive branch can get a lot of coordination going. We need a very strong mission, Ambassador, and staff through the Common Market.

The Ambassador that has been there the last couple of years and his people have done an outstanding job. But the Europeans are constantly complaining that various people in the U.S. Government are coming through town and not always saying the same thing. This is inevitable to a certain extent.

Mr. GUARINI. One of the criticisms we have on our trade policies or strategy is that we have such a tremendous overlapping of jurisdictions. You pointed out just a few of them and that there is no good coordination.

As a result there is inefficiency and overlapping of responsibilities. Do you think that that manifestation is taking place in how we are addressing the 1992 problem?

Do you think we would be better off for the President to say, look, I think the USTR should be the sole leader and get together with all the other agencies and come up with a plan?

Mr. FREEMAN. I think it is a little——

Mr. GUARINI. An coordinate all these different agencies and departments?

Mr. FREEMAN. I think it is a little early to say because just in January we had two major things happen. One, all the new commissioners began their 4-year terms in Brussels. I think it is a very good group of new commissioners.

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Second, we had our own change in the executive branch. The administration has not fully flushed out the people.

If we get people who are inclined to be cooperative and not turf oriented, I think it can be done. But I think it is too early to tell.

Mr. GUARINI. There is a problem out there. It is better to be ahead of the curb instead of the behind the curb.

Mr. FREEMAN. I see a potential problem, but I think we will get ahead of the curb. Many of the directives are already in force.

1992 is the date by which all the directives are supposed to be completed. It is not that it all happens at the end of 1992. It is happening now.

Mr. GUARINI. You are involved in this. You say that you are fully satisfied that coordination has taken place?

Mr. FREEMAN. It has greatly improved.

Mr. GUARINI. We are doing everything we should do, and there is not suggestions you can make that we do anything better?

Mr. FREEMAN. Right now we have new players in the U.S. Government, executive branch. We have a lot of slots, as you know, that have not been filled yet or gone through the confirmation process in the Senate. Also you have new commissioners in Brussels. It is now March, and they started in mid January.

Inauguration year was late in January. It is too early to be critical.

Mr. GUARINI. You are satisfied we have the structures are there.

Do you think we should track a little closer and show concern with offshore movements of our corporations and plants and jobs moving to the Common Market as to what it is going to mean within our own economy?

The ESCR said they have not gotten into that. Do you think this is something we should address right away?

Mr. FREEMAN. I think that recently there have been more investors coming to the United States than U.S. investors going outside the United States.

Mr. GUARINI. You are talking about from Europe?

Mr. FREEMAN. From Europe, yes. The leading country in the last few years of investments in plants, factories and other offices has been the United Kingdom.

Mr. GUARINI. Because our dollar is cheap?

Mr. FREEMAN. Because the dollar made it more attractive, yes, sir. There will no doubt be some movement by U.S. companies to establish larger facilities and new facilities in Europe.

On the other hand, the United States continues to grow at the same rate. It is still a larger Common Market.

Mr. GUARINI. Would you be concerned and do you think we should track these problems as closely and carefully as we can concerning the loss of jobs and plants going offshore?

Mr. FREEMAN. I am not sure I understand what you mean.

Mr. GUARINI. Do you think we should get all the data we can get, collect all the facts, marshal all the evidence as to plans moving offshore and jobs leaving the United States?

Mr. FREEMAN. I think there is——

Mr. GUARINI. As a result of the demands of the Common Market and our penetrating their market?

Mr. FREEMAN. I think there is plenty of information around on this.

Mr. GUARINI. You are satisfied?

Mr. FREEMAN. Yes, sir.

Mr. GUARINI. Thank you, Mr. Chairman.

Chairman GIBBONS. It is obvious there is more foreign investors in the United States then there has been in quite some time.

You have to have investment in order to bring plants or jobs in. We are really on the plus side of that.

Mr. FREEMAN. The United States remains the most attractive place to invest in the world.

Mr. GUARINI. Yes; that's true. Our dollar is cheap. But we must recognize that when the equity in all those plants are owned by countries outside the United States, the profits of those plants is going to be exported from the United States, and there is where we lose our current balance. I think there is where the real problem is, not just the jobs from day to day, but the future imports from foreign countries, Common Market, Japan, whatever, is going to have in our political and economic process. I think we should be concerned.

Mr. CRANE. Keep in mind that until 1880 the British owned us. The same principle applied until we had sufficient development and growth in the United States that we became a capital exporter. We have $122 billion invested in Western Europe. That cuts both ways.

Mr. GUARINI. That's true.

Mr. CRANE. I think to put undue emphasis on that can really have a negative impact on our own economy as well as relations with trading partners.

Mr. GUARINI. At least we know we were a debtor nation at the turn of the century. Every dollar we got we put into industrial expansion. The dollars that we have now, the many billions, maybe $160 billion last year, where we are now for the first time a debtor Nation again is for debt service. That is a lot different than putting it into industrial expansion.

There is no benefit that comes from the debt service as there was from using our money to expand our industries.

Mr. CRANE. That is a problem that Congress has to address, it seems to me.

Chairman GIBBONS. Thank God they are buying the stuff. The interest rates would be higher than they are if they weren't.

Thank you very much.

The National Association of Manufacturers and the United States Chamber of Commerce. Lyle, come forward. We have not seen you in a long time. We welcome you back.

STATEMENT OF GLEN J. SKOVHOLT, CHAIRMAN, TASK FORCE ON THE EUROPEAN COMMUNITY INTERNAL MARKET PROGRAM, NATIONAL ASSOCIATION OF MANUFACTURERS, AND DIRECTOR OF POLICY AND STRATEGY, CORPORATE PUBLIC AFFAIRS, HONEYWELL, INC.

Mr. SKOVHOLT. Thank you, Mr. Chairman.

My name is Glen Skovholt. I am director of policy and strategy in the Corporate Public Affairs Department at Honeywell. Honeywell is a United States corporation that is a world leader in controls and control technology. We do business in over 90 countries worldwide, with almost $1.5 billion of business in international sales last year.

We have a strong interest in the European Community, both as an exporter and as a company, which has long had a substantial presence in Europe. In 1988 more than two-thirds of our total sales outside the United States were in Europe.

It is for that reason that I was pleased to be asked to chair a recently formed task force of the National Association of Manufacturers on the European Community's Internal Market Program. We have over 150 companies cooperating in this effort along with representatives of industry associations.

This task force is presently focusing on some of the priority issues that have been identified in the NAM report, "EC 1992 and United States Industry," released earlier this month. I submitted a copy of this report to the subcommittee today along with my remarks. My comments further will focus on some of the issues in this report.

Mr. Chairman, I might just say in reference to some comments made earlier in the discussion, that this report, "EC 1992 and United States Industry," contains extremely valuable information. That is one way in which members, companies large and small, can gain information on the EC 1992. It is one way in which the National Association of Manufacturers can make information available to their membership, many of whom are small companies and medium-sized companies.

It also contains extensive information on how the Parliament and the Council of Ministers and the Commission work.

The major point I would like to make today is United States companies who are member of NAM almost uniformly emphasize EC 1992 represents a major market opportunity. My personal opinion is that how a company prepares and responds to this opportunity from a business standpoint will be the greatest factor in determining how successful it is under the single market.

NAM sees the proposed package as contributing both to a rapid expansion of the EC market and in practice the deregulation of that market which will increase opportunities for competitive producers.

As indicated in a recent NAM trade report the EC market may be the strongest one for increasing U.S. exports. The fall of the dollar led to a 3-year boost in the level of U.S. exports to the EC by $27 billion. This also meant having a trade deficit with the EC from $25 billion in 1987 into $12 billion in 1988 or over a third of the total improvement of the trade deficit in 1988.

Although most major investors in the EC produce their products in Europe, most are also significant exporters to Europe. Thirty percent of the total U.S. exports to EC is shipped directly to U.S. affiliates there. There is not a major difference in interest between U.S. companies with investments in Europe and those that service the market primarily through exporting.

Within this overall positive outlook, however, there are a series of major policy issues, the outcome of which could enhance or reduce business opportunities for U.S.-based exporters or U.S.-owned companies already established within Europe. These issues are described in the NAM report, but I will list those issues we have identified in our work as being the greatest work to NAM task force members.

Those issues include technical standards. I will comment on that a little more in a minute. Public procurement, reciprocity, sectoral trade issues, rules of origin and local content, the social dimension, competition policy, monetary policy and other issues including export controls.

On the issue of technical standards, because a number of members of NAM are representatives of sectoral trade associations, we have identified this as a particular issue and feel that perhaps the NAM task force can make a particular contribution by serving as a catalyst for U.S. industry and U.S. companies in dealing with the issues of technical standards and testing and certification.

These issues are identified and discussed in more detail in the report which I presented to the subcommittee. In the near future the NAM task force will work to identify and develop specific policy positions and proposals related to some of these issues. In the meantime, I would be pleased to answer any questions that the subcommittee may have to do or provide more information later.

Chairman GIBBONS. Without objection, sir, we will put not only our full statement, but this booklet in the record. Without objection, so ordered. Mr. Olmer?

[The statement and attachment of Mr. Skovholt follow:]

TESTIMONY OF
GLEN J. SKOVHOLT
DIRECTOR, POLICY AND STRATEGY
CORPORATE PUBLIC AFFAIRS
HONEYWELL, INC.
AND
CHAIRMAN, TASK FORCE ON THE EUROPEAN COMMUNITY
INTERNAL MARKET PROGRAM
NATIONAL ASSOCIATION OF MANUFACTURERS

ON

EUROPE 1992:
THE IMPLICATIONS FOR U.S. TRADE AND INDUSTRY

BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

MARCH 20, 1989

Mr. Chairman, I am Glen J. Skovholt, Director for Policy and Strategy in Corporate Public Affairs, Honeywell, Inc. Honeywell is a U.S. corporation offering a diversified line of electronic-based products and services to worldwide markets. We do business in over 90 countries worldwide, with almost $1.5 billion in international sales last year.

Honeywell has strong interests in the European Community both as a U.S. exporter to the E.C. market and as a company which has long had a substantial presence in Europe in all phases of our manufacturing and service activities. In 1988 more than two-thirds of our total sales outside the United States were in Europe, where we have 15 factories and employ 11,000 people.

For this reason, I was pleased to work with the National Association of Manufacturers as chairman of a task force which it recently formed on the European Community's Internal Market Program, known in shorthand as "EC-92." Over 150 companies and cooperating industry associations have worked with us in this group. This task force is presently focusing on some of the priority issues that have been identified in the NAM report, EC-92 and U.S. Industry, which was released earlier this month. I would like to submit a copy of this report to the subcommittee today, in addition to my prepared testimony. My comments will focus on some of the major issues in this report, which are of concern both in terms of the broad interests of NAM's members and the general international economic interests of the United States.

The EC-92 Market Opportunity

My major overall point is that U.S. companies almost uniformly emphasize that EC-92 represents a major market opportunity. We see the proposed package as contributing both to a rapid expansion of the E.C. market and, in practice, a deregulation of that market which will increase opportunities for competitive producers. Within this overall positive outlook, however, there are a series of major policy issues, the outcome of which could either enhance or reduce business opportunities for U.S.-based exporters or U.S.-owned companies already established within the E.C.

Let's first look at the scale of the market opportunity. By the European Commission's calculations, enactment of the full 1992 program can give a one-time boost of 5 percent or more to the total E.C. domestic product. While U.S. exporters should seek markets wherever they can find them, for the foreseeable future the E.C. may remain the key growth market overseas for U.S. industrial companies, especially if it becomes more dynamic and open.

Europe is our most important regional export market, and will probably remain so indefinitely. Today about a quarter of total U.S. exports go to the European Community, which has just overtaken Canada as the largest regional or national market. As for other countries and regions, Japan takes only 8 percent of our exports and the rest of East Asia another 13 percent. All of Latin America takes only 13 percent. And most importantly, no other regional market approaches the level of economic integration found in Europe today, much less what is being contemplated by 1992.

The E.C. market has been the most important one so far in turning around the U.S. trade deficit. As noted in NAM's recently released comprehensive trade report, the fall of the dollar has had a bigger and faster impact on growth in exports to Europe than any other region. U.S. export growth to Europe has been near or above double figures since 1985 and has been accelerating -- 9 percent in 1986, 14 percent in 1987 and 25 percent in 1988. And this export growth in 1988 has cut the bilateral U.S. trade deficit with the E.C. in half: from $25 billion in 1987, to $12 billion in 1988. That improvement alone accounted for more than a third of the total improvement of the U.S. trade deficit in the first half of 1988.

Finally, let's look at the relationship between trade and investment. I've already noted that Honeywell has a major investment and manufacturing presence in Europe. For all U.S. manufacturers, total holdings in the E.C. were officially valued at $65 billion at the end of 1987. That's more than half the total value of all U.S. companies' manufacturing investment abroad.

Although most major U.S. investors in the E.C. produce a large proportion of their locally sold products in Europe, it is important to recognize that most, like Honeywell, are also significant exporters to Europe. In fact, about 30 percent of total U.S. exports to the E.C. is shipped directly to U.S. affiliates there.

I would conclude, therefore, that there is not a major difference in interest between U.S. companies with investments in the E.C. and those that service the market primarily through exporting. Many U.S. exporters directly or indirectly sell their products to or through large U.S. investing firms. Most U.S. investors do some significant exporting to the E.C. market. And in both types of activities, it is critically important to maintain close and positive relations with customers, distributors and joint venture partners that may be E.C.-headquartered companies. Finally, as Richard Heckert of Du Pont, the current chairman of NAM, testified in another Congressional forum, over the long term it is difficult to maintain a major presence in important overseas markets solely through exporting. Most companies must consider some type of investment eventually.

The 1992 Internal Market Program

The basic thrust of the 1992 program is to complete the internal market established as a European objective by the Treaty of Rome over 30 years ago. As laid out in the E.C.'s 1985 "white paper," this involves the pragmatic elimination of three major types of barriers.

-- **Physical barriers** at the borders to the free flow of goods and persons;

-- **Technical barriers** that prevent goods produced or traded in one member state from being sold in others;

-- **Fiscal barriers** such as the red tape, delays and costs of different national tax systems which prevent cross-border trade.

Also associated with the elimination of these barriers are major initiatives in competition policy, encouragement of research and development, establishment of coordinated monetary policies with possible monetary union, and decisions on common social policies.

On the whole, NAM's members view this program as a positive set of proposals that will have the effect of loosening many of the internal protectionist measures that remain within the E.C. and prevent its realization of a true common market. Both exporting and investing companies see the result as a more open and competitive environment, in which the major ultimate beneficiary is the individual E.C. citizen and consumer.

In studying this program with other NAM members, we have concluded that three aspects of the overall package stand out from the point of view of U.S. business:

1) EC-92 is not designed, in itself, to promote trade with non-EC partners. It may have that effect, as European companies seek competitive products and commercial allies outside Europe as well as within. But as former European Commissioner Lord Cockfield, the primary architect of this program, emphasized in a meeting at NAM three years ago, "This program is not primarily for the benefit of our trading partners." I should also emphasize, however, that the E.C. has also maintained that it will respect all existing international obligations in developing and implementing EC-92. It will be very important that we keep this in mind -- and remind the E.C. of their own pledge.

2) EC-92 is being implemented today. EC-92, which includes a list of 300 directives and other policy actions, is not like our recent Free Trade Agreement with Canada, that went into effect on a date certain -- January 1, 1989. The EC-92 program is going into effect continuously, as directives and regulations are enacted, with conforming actions by national legislatures, governments and standard-setting bodies.

3) The economic impact may be front-loaded. Companies in the E.C. have made and are making decisions right now regarding cross-border alliances and rationalization of production. This includes U.S. companies operating in the E.C. Therefore, some observers believe

that the European Commission's economic analysis is misleading, when it predicts maximum benefit only in the mid-1990s after a period of initial restructuring and lost output. Major positive benefits may be felt earlier than expected. Both U.S. business and the U.S. government must be prepared to deal with the early impact of change.

A "Watch List" of Issues

As I emphasize above, NAM's members generally view EC-92 as a positive development, that may already be revitalizing the European market. But there are specific developments and proposals that create some concern. These are the EC-92 policy areas where U.S. companies believe that specific decisions may enhance or reduce their opportunities to compete in a more open E.C. market. In the remainder of this testimony, I want to turn to the concerns on a "watch list" of such issues that has been developed by NAM.

Technical Standards -- The harmonization of technical standards, a key goal of EC-92, can have a major impact on current and future access of U.S. goods to the E.C. market. In principle, the adoption of common standards is widely seen by U.S. companies in Europe as a major benefit. U.S. companies with production facilities in Europe believe that they will be able to rationalize production across national frontiers to a much greater degree than at present. U.S. exporters may achieve comparable benefits. Whatever standard is adopted for a product, the potential U.S. exporter will be assured that complying with this standard provides access to the entire E.C. market.

But there are concerns among U.S. companies over the improved and expedited European standard-setting process. To allay some of these concerns, E.C. standards setting bodies have promised improved transparency and access to information as new standards are developed. NAM has discussed with the Commerce Department the concerns of its members, and asked that Secretary Mosbacher take the initiative in encouraging an improved dialogue between U.S. and E.C. broad-based standards setting bodies.

Public Procurement -- EC-92 includes proposals to enhance existing E.C. rules on the opening of member government procurement and to extend E.C. rules to the sectors presently excluded from GATT or E.C. discipline. The opening of such procurement within the E.C. is a promising step, and could lead to a significant expansion of liberalization among present signatories of the GATT procurement code. On the negative side, the procurement directives for the four presently excluded sectors (water, energy, transport and telecommunications), include specific local content rules that favor E.C.-source products and services, unless trading partners liberalize their own procurement rules in an equivalent manner.

Reciprocity -- The E.C. has adopted a controversial policy of extending intra-E.C. market opening initiatives to non-E.C. producers only insofar as E.C. trading partners provide equivalent access to their markets for E.C.-based producers and E.C. products. As far as industrial companies are concerned, there are some important qualifications on this approach, as elaborated in the European Commission statement of October 1988. This includes continued acceptance of the full citizenship rights of foreign-owned

companies established in the E.C. as provided under Article 58 of the Treaty of Rome. And the E.C. has stated that the interpretation of treatment will be based on concepts of "equivalent" and "non-discriminatory" access, rather than a requirement that rules of access be exactly the same for foreign participants in the E.C. and E.C.-based companies in non-E.C. markets.

Another important point here is that the E.C. has stressed that reciprocity can be developed through either bilateral or multilateral negotiations. At NAM, we would particularly hope that this means that the current GATT negotiations will continue with full and active E.C. participation.

Sectoral Trade Issues -- NAM has particularly focused on the future development of E.C.-wide common commercial policies and other sectoral initiatives regarding automobiles, telecommunications and information technology, because of the broad implications of policies in these areas.

Rules of Origin and Local Content -- The development of E.C. rules that determine whether goods are of E.C. origin, for the application of regular or penalty tariffs, is not specifically related to the EC-92 program. At present, there is no general local content policy planned, although such provisions have appeared in specific directives. There are U.S. industrial concerns that these piecemeal approaches will eventually merge into a general E.C. pattern.

Intellectual Property Rights -- Enhancement and completion of a Europe-wide system of protection of trademarks, patents and copyrights is an important component of completing the internal market. In general, the E.C. appears to be adopting policies that are compatible with U.S. policy approaches. On the other hand, we should mention that the E.C. attack in the GATT on Section 337 of the U.S. Trade Law poses the possibility of a serious trade policy confrontation in this field.

Social Dimension -- U.S. companies with production facilities and large numbers of employees in Europe, like ourselves, are especially interested in this issue. The question is whether EC-92 should be accompanied by new initiatives in employment and social affairs, and what type of initiatives would be most effective under the EC-92 program.

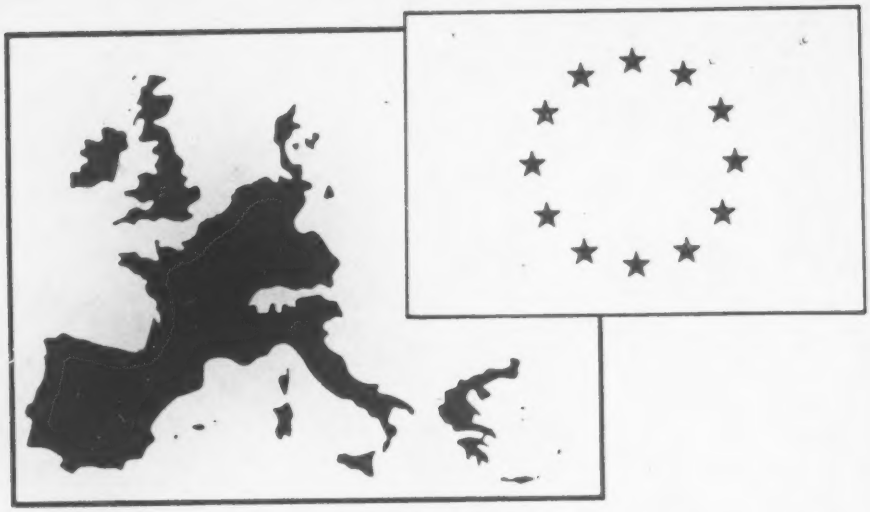
Competition Policy -- Establishment of E.C.-level control over mergers and acquisitions involving large-scale multinational combinations, as proposed in a regulation drafted last year, is potentially of major importance for U.S. businesses in the E.C. Such a policy, if it allows for a quick and exclusive ruling by the E.C. on proposed mergers, can reduce the obstructive or delaying effect of approvals by multiple national jurisdictions.

Monetary Policy -- Elimination of all controls on capital movements within the E.C. has already been agreed. Establishment of mandatory coordination of monetary policies and possible creation of a single E.C. central bank and currency are currently being considered in a committee headed by European Commission President Delors. Such developments would expedite the ability of U.S. companies -- as both exporters and investors -- to operate across national boundaries. But there may also be a larger trade-related effect on the relationship of the dollar to the broad range of E.C. currencies.

Potential Issues -- NAM's members have identified two other areas where there are no formal proposals, but where future decisions will probably have a strong impact on U.S. business interests. One is the probable development of a single E.C.-wide export control system, as a result of EC-92. The other is the planned extension of tight E.C. government procurement rules to the generally excluded sector of defense procurement.

These are the major issues that have been identified as being of most direct interest and concern to the broad range of NAM's membership. These issues are identified and discussed in more detail in the report which I have presented to the subcommittee. In the near future, the NAM EC-92 Task Force will work to identify and develop specifc policy positions and proposals related to some of these issues. In the meantime, I would be pleased to answer any questions that this subcommittee may have today, or to provide more detailed comments in writing.

EC-92 and U.S. Industry



An NAM Report on the Major Issues for U.S. Manufacturers
in the European Community's Internal Market Program

by Stephen Cooney
Director, International Investment and Finance

National Association of Manufacturers
February 1989

The National Association of Manufacturers is a voluntary business association representing approximately 13,000 member companies and subsidiaries—large and small—located in every state. Members range in size from the very large to the more than 9,000 smaller manufacturing firms, each with fewer than 500 employees. NAM member companies employ 85 percent of all workers in manufacturing and produce more than 80 percent of the nation's manufactured goods. NAM is affiliated with an additional 158,000 businesses through its Associations Council and the National Industrial Council.

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FOREWORD

Over the past year, a new buzzword -- EC-92 -- has sprung up in our vocabulary. EC-92, of course, refers to the plans of the European Community to eliminate barriers to the completion of the E.C.-wide internal market by 1992. While the buzzword may be new, the work in the European Community to achieve this goal has been going on since 1985.

For U.S. manufacturers exporting to and operating in Europe, EC-92 is an extremely important issue. U.S. exports to the EC amount to $80 billion and intra-EC sales of U.S. firms in Europe total $550 billion annually. Two-thirds of the non-communist world's GNP is accounted for by the economies of the E.C. and the United States. What goes on within the E.C. market, therefore, has an important bearing on the interests of the rest of the world.

While NAM has been following this issue since 1985, it was not clear to us exactly how the interests of the American manufacturing community were affected by EC-92, despite the rather extensive amount of recent press coverage. We decided, therefore, to conduct an extensive series of discussions and interviews with government and corporate officials on both sides of the Atlantic with the aim of producing a report on what EC-92 means to the American manufacturing community. Stephen Cooney, Director for International Investment and Finance at NAM, has been in charge of this work over the past six months and the results of his efforts follow.

This report is intended to help identify the important issues for American manufacturers in EC-92. It is designed as an information document and not as an NAM policy statement. Development of NAM policy positions on specific EC-92 issues will be coordinated by an NAM Task Force on EC-92, chaired by Glen J. Skovholt, Director, Policy and Strategy for Corporate Public Affairs, Honeywell Inc.

We would encourage any comments and analysis on this NAM report and we would be glad to answer questions or hear comments about how EC-92 affects American manufacturing interests.

Howard Lewis III
Vice President, International
Economic Affairs
National Association of Manufacturers

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EC-92 AND U.S. INDUSTRY

EXECUTIVE SUMMARY

The plan to complete the opening of European Community internal market by 1992, known in shorthand as EC-92, promises to have major effects on U.S. industry. The overall view of U.S. industry is strongly positive. NAM members emphasize the positive impact of strong and dynamic growth, in an increasingly deregulated market.

This report aims to provide guidance for NAM members on the changing European business environment. It focuses on the specific issues and proposals related to EC-92 that have been identified as being of most concern to U.S. industry, rather than the overall history, politics and economics of the E.C. internal market program. The report is based on extensive consultations by the author with NAM member firms in the United States and Europe, cooperating business associations, and information provided by representatives of the U.S. government, staff of the European Commission in Brussels and officials of E.C. member-state governments and private trade associations.

This report is divided into two parts:

Part I: Evolution of EC-92 and U.S. Industry is an overview of both the interests of U.S. industry in EC-92 and the development of the EC-92 program. The major subjects of this part of the report are as follows.

What Is at Stake for U.S. Industry?

As indicated in NAM's recent comprehensive trade report, the E.C. may be the strongest and most important market from the perspective of increasing U.S. exports. The fall in the dollar, improved E.C. growth rates and the relatively open E.C. market has led directly to a three-year boost in the level of U.S. exports. The 1988 level was $27 billion higher than in 1985. This has also meant reducing our trade deficit with the E.C. from $24 billion to $12 billion, accounting for over a third of the total $33 billion improvement in the U.S. trade deficit in 1988. Moreover, the E.C. is far and away the most important host for U.S. manufacturing investment abroad -- at $65 billion, more than half the worldwide total.

The E.C. Internal Market Program

The basic thrust of EC-92 is to complete the internal market established as a European objective by the Treaty of Rome over 30 years ago. As laid out in the E.C.'s 1985 "white paper," this involves the pragmatic elimination of three major types of barriers.

-- **Physical barriers** at the borders to the free flow of goods and persons;

-- **Technical barriers** that prevent goods produced or traded in one member state from being sold in others;

-- Fiscal barriers such as the red tape, delays and costs of different national tax systems which prevent cross-border trade.

Also associated with the elimination of these barriers are major initiatives in related areas, including competition policy, encouragement of research and development, establishment of coordinated monetary policies with possible monetary union, and decisions on common social policies.

Prospects for Completing EC-92 and the Process of Adopting EC-92 Policies

The first part of the report reviews the major issues involved in the completion of the ambitious EC-92 program. It notes that whatever the outcome of these politically sensitive questions, which could prevent the goals of the 1985 White Paper from being fully achieved, many directives and policies related to 1992 will go into effect as they are approved by the E.C. The reappointment of President Jacques Delors for a second term as President of the European Commission, beginning in January 1989, indicates the strong commitment of E.C. member states to achievement of the internal market goal. During the term of the new commission, which ends on December 31, 1992, the conditions for U.S. companies of doing business in the E.C. will be changed in a major and irrevocable way.

The first part of the paper concludes with an analysis of how EC-92 policies are developed and adopted within the E.C. institutional framework. It also summarizes the ways in which U.S. companies can seek access to provide and receive information on how the process may affect their interests.

Part II: Major Issues for U.S. Companies in EC-92 reviews the major issues that could either enhance or reduce the opportunities for U.S. companies as investors in or exporters to the E.C. These major issues represent the subsections of Part II of the report. Within each subsection, the report analyzes the principal relevant proposals of the EC-92 program that have been adopted or considered to date.

1) Technical and Environmental Standards -- The harmonization of technical standards, a major part of EC-92, can have a major impact on current and future access of goods produced by U.S. companies for the E.C. market. The expedited adoption of common E.C. standards is widely seen by U.S. companies as a major benefit. However, there are serious concerns regarding timely and adequate access to standards information through the voluntary E.C. "CEN/CENELEC" standards-setting process. Also, U.S. companies have concerns regarding the implementation of E.C. certification and testing recognition procedures.

2) Public Procurement -- The enhancement of existing E.C. rules on the opening of member government procurement and the extension of E.C. rules to the sectors presently excluded from GATT or E.C. discipline are designed to increase dramatically cross-border procurement within the E.C. The new rules, at least in the previously excluded sectors, will not necessarily apply to non-E.C. source products. But the E.C. has indicated a willingness to consider open access on a reciprocal basis, either bilaterally or multilaterally.

NAM members have indicated concern with the new local content rules included in the proposals regarding procurement in the presently excluded sectors, but are encouraged by the principle of opening these markets within the E.C. and the commitment to negotiating opening of these sectors to other signatories of the GATT procurement code.

3) Reciprocity -- The controversial stated E.C. policy of extending intra-E.C. market opening initiatives to non-E.C. producers only insofar as E.C. trading partners provide equivalent access to their markets for E.C. producers has led to great public concern with the emergence of a "Fortress Europe" in world trade. The October 1988 Commission statement on the definition of reciprocity has alleviated some U.S. industry concerns regarding this subject.

4) Sectoral Trade Issues -- This report particularly focuses on the future development of E.C.-wide common commercial policies and other sectoral initiatives regarding automobiles, telecommunications and information technology, because of the broader implications of policies in these areas.

5) Rules of Origin and Local Content -- U.S. industry is strongly concerned with the development of E.C. rules that determine whether goods are of E.C. origin, not only for the application of specific trade benefits or penalties, but also on a more general basis regarding the treatment and access of foreign companies or producers in the E.C. market.

6) Intellectual Property -- Enhancement and completion of a Europe-wide system of protection of trademarks, patents and copyrights is a process that pre-dates EC-92. But it has been stimulated by plans to create a more integrated market. Generally, U.S. companies are supportive of proposals to allow registration in one member country to be valid for the whole Community, as well as to broaden the products that are covered by E.C.-wide copyright rules. There are concerns, however, with some proposed reform procedures.

7) Social Dimension -- The increase in unemployment in the E.C. between the early 1970s and the 1980s has been a major stimulus for the acceptance of the EC-92 program. The "social dimension" of EC-92 includes new initiatives in employment and social affairs related to the creation of a more integrated E.C. market. Both U.S. companies and E.C. industry generally have been supportive of proposals aimed at establishing E.C.-wide safety standards, reducing regional disparities, improving worker training and enhancing labor mobility. Concerns have been expressed over other initiatives, that would have the effect of establishing more rigid E.C.-wide industrial relations policies and practices.

8) Competition Policy -- Establishment of E.C.-level control over mergers and acquisitions, particularly large-scale multinational combinations, is seen by U.S. companies as potentially providing an expedited means of increasing E.C.-wide competition, while producing substantial gains for the E.C. through improved economies of scale.

9) Monetary Policy -- The E.C. has already agreed on the elimination of all controls on capital movements within the E.C. Currently under consideration are the establishment of mandatory coordination of monetary policies and possible creation of a single E.C. central

bank and currency. These policies not only enhance the ability of U.S. companies to operate within the E.C. framework, but may also have a major impact on the E.C.'s international competitive status.

10) Potential Issues -- The report concludes by noting two other issues not now included in the EC-92 program, but which may have a major effect on U.S. companies when they are considered by the E.C. in the future. These are future rules regarding the opening of defense procurement within the E.C. and the adoption of common E.C.-wide export control policies.

EC-92 AND U.S. INDUSTRY

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February 1989

INTRODUCTION

There is no hotter subject among U.S. business leaders than the proposal to eliminate the European Community's remaining internal market barriers by 1992. Virtually every U.S. industry and major company now is trying to understand what "EC-92" means for them and for their world marketing strategies.

At this point, U.S. companies almost uniformly emphasize that EC-92 represents a major market opportunity. They see the proposed package as contributing both to a rapid expansion of the E.C. market and, in practice, to a deregulation of that market which will increase opportunities for competitive producers. Within this overall positive outlook, however, there are a series of major policy issues, the outcome of which could either enhance or reduce business opportunities for U.S.-based exporters or U.S.-owned companies already established within the E.C.

This report aims to provide guidance for NAM members on the changing European business environment. It focuses on the specific issues and proposals related to EC-92 that have been identified as being of most concern to U.S. industry, rather than the overall history, politics and economics of the E.C. internal market program. The report is based on extensive consultations by the author with NAM member firms in the United States and Europe, as well as cooperating business associations. The firms consulted in Europe include European as well as American-owned enterprises. The report is also based on information provided by representatives of the U.S. government, staff of the European Commission in Brussels and officials of E.C. member-state governments and private trade associations. The report is not a formal NAM policy statement on EC-92 issues, though it may indicate those issues in EC-92 on which NAM policy may later be developed.

The following issues are those that have been identified as being of greatest importance to American industrial exporters and investors doing business in the E.C. Each is given a separate detailed section in Part II of the report, where the most critical specific proposals and policy choices are discussed.

1) Technical and Environmental Standards
2) Public Procurement
3) Reciprocity
4) Sectoral Issues
5) Rules of Origin and Local Content
6) Intellectual Property
7) Social Dimension
8) Competition Policy
9) Monetary Policy
10) Other Potential Issues

This report refers to many texts of specific documents and policy proposals related to these issues. Precise references are provided in the report for the use of members who wish to follow up on issues in more detail. In many cases these proposals will evolve as they move through the E.C. policy process. Listed at the end of the report are some contacts in the United States and Europe which are good sources of information for U.S. companies as they seek information on the issues of most importance to them.

Organization of this Report

This report is written in two parts. The first part is a general orientation for the business reader. It summarizes the importance of the E.C. market for U.S. business, then briefly describes the development of the EC-92 proposal and the policy processes of the European Community as amended by the Single European Act of 1987 (SEA). This latter constitutional change is so named because the E.C. member states used one negotiated instrument to amend the basic European Coal and Steel Community and Euratom treaties, as well as the Treaty of Rome that established the Common Market.

The second part of the report is based on a "watch list" of major EC-92 policy issues, whose development will be critical for the future role of U.S. business in Europe. These are not necessarily the most important or visible EC-92 issues from the member states' own political and economic perspectives, but may be the ones with the most impact on U.S. business and manufacturing interests. Accordingly, this is the range of issues which will receive most attention from NAM during the evolution of EC-92.

I. THE EVOLUTION OF EC-92 AND U.S. INDUSTRY

What Is at Stake for U.S. Industry?

Many commentators in recent years have criticized U.S. business for being too "Euro-centric," too focused on traditional and slow-growing markets in western Europe. We have been told that the future, high-growth markets are in such areas as the Pacific Basin, Latin America and other less-developed economic regions, or even the major Communist countries. These analyses underestimate the dynamism, openness and growth possibilities that remain in Europe. While U.S. exporters should seek markets wherever they can find them, for the foreseeable future the E.C. may remain the key growth market overseas for U.S. industrial companies.

Europe is our most important regional export market, and will remain so indefinitely. The value of U.S. exports to the European Community is about a quarter of total exports, a little higher then the share going to Canada. But a quarter of all U.S. exports to Canada are cars and parts involved in the two-way auto trade agreement. As for other countries and regions, Japan takes only 8 percent of our exports and the rest of East Asia another 13 percent. All of Latin America takes only 13 percent. And most importantly, no other regional market approaches the level of economic integration found in Europe today, much less what is being contemplated by 1992.

The E.C. is a critical market for many specific U.S. exports. In 1988, 46 percent of all U.S. exports of computers and parts have gone to the E.C. -- that's a projected total of over $10 billion in exports of that product to the European Community. The E.C. is also the largest market for U.S. electrical machinery and parts, a category that includes semiconductors. Total U.S. exports to the E.C. in 1988 may have hit $4.5 billion. The E.C. takes about a third of U.S. aircraft exports, with sales this year running over $6 billion at an annual rate. And in scientific and controlling instruments, where U.S. manufacturers maintain a strong trade surplus, 35 percent of all exports in 1988 went to the E.C.

The E.C. market has been the most important one so far in turning around the U.S. trade deficit. The fall of the dollar has had a bigger and faster impact on growth in exports to Europe than any other region. U.S. export growth to Europe has been near or above double figures since 1985 and has been accelerating -- 9 percent in 1986, 14 percent in 1987 and an incredible 25 percent in 1988. Since 1985 the increase in our exports to the EC, from $49 billion to $76 billion in 1988, has been roughly equal to our total exports to Japan in 1987. It's as if we have suddenly found a new export market out there the size of Japan. This export growth in 1988 cut the annual rate of the bilateral U.S. trade deficit with the E.C. in half: from $24 billion in 1987, to $12 billion in 1988. That change alone accounted for more than a third of the total improvement of the U.S. trade deficit in 1988.

Finally, let's look at investment. The total U.S. direct investment stake in the European Community is nearly $125 billion, according to official statistics. In manufacturing investment alone, total U.S. holdings in the E.C. were valued at $65 billion

at the end of 1987 -- more than half the total value of U.S. companies' manufacturing investment abroad. It is more than double the amount in Canada, almost ten times the amount in Japan, four times the total for all Latin America and twelve times the total for all Asia outside Japan.

The E.C. Internal Market Program

Anything that affects U.S. economic interests on this scale is obviously of critical importance to U.S. industry and to the U.S. economy more generally. The E.C. internal market proposal -- the goal of completing the internal E.C. market and removing all intra-E.C. trade barriers by 1992 -- is probably the most important policy initiative taken within the European Community since the founding of the Common Market in 1957. This explains the extraordinary interest of U.S. business in this initiative.

It is the very failure to complete the common market as originally envisioned that has led to the development of EC-92. For example, as one American executive with extensive experience in the E.C. has explained, "On January 1, 1958, the original six members of the Common Market took down their signs at the internal borders that said 'Customs.' Then they put up new signs that said 'Taxes.'"

What he means is that differences in internal national regulations -- and not just taxes, but in other areas like technical standards and public procurement policies -- have circumscribed the benefits of a truly open and free market among the Common Market's members. As the European Community doubled in members, this problem has not become any simpler to resolve. Cross-border controls remain in place for a plethora of reasons. According to the European Commission's official study, summarized in the report The European Challenge - 1992 by Paolo Cecchini, the resulting "cost of non-Europe" may equal 3 to 6 percent of Europe's gross domestic product, or a total of $250 billion annually.

These costs were tolerable in the 1950s and '60s as the European economies boomed. There was visible progress in the initial elimination of national tariff barriers within Europe. American companies contributed to this progress by investing heavily and by bringing in their expertise in operating across a wide range of regional markets. But the initial momentum and optimism faded in the 1970s, with the energy and unemployment crises in Europe, a major growth slowdown, stagflation and the European version of the U.S. "malaise" of the late 1970s: "Eurosclerosis."

The proposal to establish a fully open internal market by 1992 is designed to sweep away the de facto obstructions to free trade within Europe. To understand the genesis of the proposal, which dates from 1985, it is necessary to understand the failures of previous efforts to eliminate internal market barriers by harmonizing national product standards and other policies. There were efforts to define specific E.C.-wide codes for goods on a product-by-product basis -- Euro-beer, Euro-bread, Euro-ice cream and so on. Progress was so slow, that it could not even keep pace with the development of new products in the dynamic European economy.

Finally, in a landmark decision the European Court of Justice declared that member governments could not use their national standards and regulations as a basis for keeping

out goods that were legitimately sold and consumed in other member countries. This decision -- the Cassis de Dijon decision -- meant that E.C. member countries had to accept some expeditious means of developing E.C.-wide minimum product standards. The alternative would be goods sold in their national markets that were produced under conflicting standards or even no standard at all.

Another impetus behind EC-92 was world competitiveness. The goal of a "United States of Europe," going all the way back to Jean Monnet, the father of the European idea, was always outward-looking as well as inward-looking. Monnet wanted Europe to be a power in world economic and political affairs. By the early 1980s, it had become clear that market barriers within Europe were inhibiting the development of economies of scale sufficient to make European-based enterprises competitive in the world economy.

We also cannot forget the employment question as a major impetus for change. Unemployment rates in Europe mounted and remained stubbornly high in the early 1980s. From essentially full employment, or even "negative unemployment" in some E.C. member countries around 1970, the total estimated E.C. unemployment rate rose through the 1970s and reached double digits, 10.5 percent, in 1983. Since then, it has not appreciably fallen. It became increasingly clear to E.C. members that it was necessary to add a new structural dynamic at the Europe-wide level, and that addressing the unemployment problem solely at the national level of structural adjustment provided an insufficient solution to national unemployment problems.

The Cecchini report estimates that the total growth in E.C. GDP as a result of elimination of internal market barriers would directly create 1.8 million new jobs. This would not solve the E.C. unemployment problem, though it would at least reduce unemployment by an estimated 1.5 percent, allowing for some initial job losses due to restructuring. More importantly, as with world competitiveness, there was a perceived need to create a solution to the unemployment problem that was on a greater scale than provided within the individual member country economies. This need was compounded by the great disparities in regional development within the E.C., especially after the addition of the three lower-income Mediterranean countries in 1981-86.

In 1985 the recently-appointed European Commissioner for the Internal Market, Lord Cockfield of the United Kingdom, produced a remarkable new proposal which has revitalized the European Community. Backed by the recent decision of the European Court of Justice, the Cockfield "White Paper" proposed a target list of about 300 directives and other policy actions, aimed at eliminating effective barriers to the internal market. Taken together, these directives would:

- Eliminate all remaining physical barriers to the movement of persons and goods within the E.C.;

- Eliminate differences in national technical standards as barriers to the free movement of goods;

- Eliminate national differences in indirect tax rates as a trade barrier.

Moreover, Lord Cockfield insisted that the package was a package. It had to be achieved by a date certain -- 1992 -- or the whole process would be blocked by each member-state picking the benefits they wanted, and dragging their feet on the rest. Cockfield's program was both encouraged and fully backed by the European Commission President, Jacques Delors, who has made EC-92 his top priority. In addition, the Single European Act (SEA), specifically approved to expedite completion of the internal market, established that most internal market directives would be adopted by qualified majorities. No one member government could block directives by withholding its consent.

Prospects for Completing EC-92

EC-92 is a moving target. But this is a good halfway point at which to assess developments. Nearly half of the proposed list of directives in the 1985 White Paper have already been adopted or advanced to the final stages of approval. Due to differences with Prime Minister Margaret Thatcher over the speed of certain aspects of EC-92, Lord Cockfield has not been re-nominated to the Commission by the British government. But the reappointment of Delors as President, for the new term starting in 1989, signifies that the process will continue, with the support of the E.C. member states.

The most serious political obstacles to achievement of the EC-92 package do not necessarily involve the most salient operational issues for U.S. companies. This is important for NAM members to remember as they follow the progress of the EC-92 program. Perhaps the most difficult decisions that the E.C. will have to make on the EC-92 agenda involve U.S. interests and U.S.-E.C. economic relations only indirectly, insofar as U.S. companies and the U.S. economy as a whole have a major stake in the successful completion of the EC-92 program. Such issues include:

- Harmonization of VAT rates;
- Complete elimination of frontier controls on movement of persons within the E.C.;
- Monetary policy harmonization, including the possible establishment of an E.C. central bank and single currency.

Whatever the outcome of these politically sensitive questions, which could prevent the goals of the 1985 White Paper from being fully achieved, other directives and policies related to 1992 will go into effect as they are approved by the E.C. In this sense, Lord Cockfield's admonition that EC-92 must be achieved as a complete package is misleading: those parts of the package that attain final approval will immediately begin to affect how business is done in Europe. Moreover, some European economists dispute the conclusions of the Cecchini study regarding patterns of growth. The study predicts some loss of economic growth due to restructuring problems as EC-92 begins to affect E.C. economies, followed by large gains in the mid-1990s. But other economists see more "front-loaded" growth due to new efficiencies as parts of the EC-92 package enter into effect.

On January 1, 1989, a new Commission took office in Brussels. President Delors was reappointed, but there were many important changes in the other portfolios (an updated

list of the Commissioners is provided in an appendix to this report). U.S. companies should at least anticipate that a large part of the total EC-92 package will be in place by the end of this Commission's mandate in four years. During this period, the conditions for U.S. companies of doing business in the E.C. will be changed in a major and irrevocable way.

The Process of Adopting EC-92 Policies

Before analyzing in detail the major issues of EC-92 for U.S. companies, it is important that the reader have a general familiarity with European Community terms and institutions. Moreover, the fundamental relationship of the member states and organs of the E.C. has been altered by adoption of the SEA in 1987, specifically to enhance completion of the internal market. General background knowledge of the institutional relationships within the E.C. is necessary for determining the most appropriate points in the process for U.S. companies to raise questions or concerns regarding specific EC-92 proposals.

Most of the Internal Market legislative work will be carried out by three E.C. institutions: the European Commission, the Council of Ministers, and the European Parliament. These three institutions are responsible for proposing, debating and adopting Community legislation. In addition, the European Court of Justice decides on the legality of challenged E.C. legislative measures.

The Commission is responsible for formulating and proposing legislation and providing for the administration of Community policies. The Commission is led by 17 Commissioners (two each from France, the Federal Republic of Germany, Italy, Spain, and the United Kingdom, and one from each of the other member states.)

The Commissioners and their staff draft all Community legislative proposals and policy statements. Each Commissioner is responsible for one or more areas of Community policy, such as economic affairs, agriculture, environment and energy. The staff of the Commission are organized into directorates-general (DGs) -- there are 22 DGs at present, and they do not correspond exactly to the portfolios held by individual commissioners (see list in Appendix 1). The Commissioner responsible for the Internal Market program in the new Commission is Martin Bangemann, formerly Economics Minister of Germany. DG III is the directorate responsible for many internal market policies, but other directorates also have relevant areas of authority.

Once E.C. legislation is adopted, the Commission is responsible for implementation. If legislation is adopted in the form of a regulation, it immediately becomes law in the member state. However, most EC-92 policies are cast in the form of directives, which means that each member government must pass or have previously established national legislation conforming to the general terms of the E.C. policy. The Commission is also the executive body responsible for negotiations with non-E.C. countries and organizations in areas where member states have ceded authority to the E.C. -- notably trade policy. These contacts are handled primarily through DG I (External Relations), though other directorates are involved in some specific functional issues.

The Council of Ministers is the decision-making body of the Community and must approve all Community legislation. It is the only Community organization whose members act as representatives of the individual E.C. member state governments. Member governments are represented at Council meetings by the national minister who has responsibility for the subject under discussion. The presidency of the Council rotates every six months, in accordance with the "E.C. alphabet:" the alphabetical order of member state names in their respective national languages. Thus, Germany (Deutschland) and Greece (Ellas) chaired the Council in 1988, to be followed by Spain (Espana) and France in 1989. This rotation is quite important, because the national government's own priorities can heavily influence the Council agenda during its presidency.

Formerly, the Council could only take decisions on most important matters by unanimous agreement. The SEA has amended the Treaty of Rome to allow Council approval on most internal market proposals by "qualified majority" voting. This change may prove extremely important to U.S. companies, who will no longer be able to rely on one country to block changes that may disadvantage them and who correspondingly may be less concerned about individual countries that oppose favorable internal market reforms. Appendix II explains the qualified majority voting rules. Note that not even two large countries voting together or any combination of one large country and two small ones can block an internal market proposal. In certain areas, such as 1992 measures, the Council must also formally consult with the European Parliament and the Economic and Social Committee.

The European Parliament (EP) is comprised of 518 members, directly elected by the voters in each of the member states, roughly in proportion to the member state's population. The Members of the European Parliament (MEPs) sit in nine political party groupings, such as the Socialist Group or the European People's Party, rather than in national groups. At present, the Socialists have the largest single voting bloc within the EP, augmented by a substantial number of Communist MEPs and members of other left-wing groups. Since 1979, the EP has been directly elected by voters in the member states. The next EP election is set for this year.

The EP advises the Commission and the Council on legislative proposals before any legislation is adopted. It also exercises a measure of democratic control over the Commission and the Council through its right to amend or delay legislation. This power has been increased under the SEA, especially with regard to EC-92 issues. Specifically, the EP may amend Commission proposals, then reapprove their amended version by a two-thirds majority, if the Commission does not accept the EP amendments. The Council may subsequently only reject the EP version and replace it with its own through a unanimous vote. The EP also must approve the E.C. budget, and, importantly for U.S. interests, must ratify all E.C. treaties with non-member countries.

The Court of Justice (ECJ) is comprised of thirteen Judges and six Advocate-Generals, each appointed by agreement among the national governments for six-year terms. As the "Supreme Court" of the Community, the ECJ determines the validity and correct interpretation of challenged Community law provisions. A new Court of First Instance has also been established to relieve the backlog of cases awaiting decision by the ECJ.

The ECJ does not have a role in legislating individual 1992 laws as do the other three Community institutions described above. Through its legal decisions, however, it has been a driving force behind European integration generally and in several instances has forced the Member States to eliminate barriers to free trade within the Community, as noted above in the Cassis de Dijon decision, and confirmed by recent decisions regarding Italian pasta regulations, the German beer purity law and the Danish bottle law. Individuals and companies may challenge E.C. or member state policies directly in the ECJ. This is different, for example, to the GATT, where only member governments may lodge complaints against each other.

The institutional structure of the E.C. provides U.S. companies with a number of points of access to voice their concerns and opinions on EC-92 proposals:

-- Specialists within the relevant directorate of the European Commission;

-- Member state trade and industry associations, as well as the E.C.-wide employers' association (UNICE), headquartered in Brussels;

-- Functional ministries of national governments in sympathetic member states;

-- Member states' permanent delegations to the E.C., who do most of the background work for the Council of Ministers' meetings through the Committee of Permanent Representatives (COREPER);

-- Members of the European Parliament who may be sympathetic to the position of the U.S. company;

-- National E.C. member state legislatures, which must enact all EC-92 directives into specific laws.

Also, it is very important that U.S. companies should remember contacts with relevant U.S. government representatives in Washington and Brussels -- general contacts are listed at the end of this report.

II. MAJOR ISSUES FOR U.S. COMPANIES IN EC-92

1. TECHNICAL AND ENVIRONMENTAL STANDARDS

One of the major components of the internal market is the elimination of differences in technical standards, that serve as barriers to intra-E.C. trade. The issues associated with the elimination of technical standards barriers within the E.C. and the establishment of a new E.C.-wide standards process may affect more U.S. companies than any other EC-92 issue.

In view of the Cassis de Dijon decision and the Internal Market program, a wide range of technical "framework" standards are being negotiated. Community policies will put particular emphasis on certain sectors, including information technology and telecommunications, pharmaceuticals, chemicals, medical products, construction equipment and food products.

From the U.S. perspective, it should be understood from the outset that the reform of the technical standards process in the E.C. is not intended as a market-opening device with respect to non-E.C. trade partners. E.C. documents indicate that the E.C. will remain bound by existing GATT obligations related to technical standards. But the E.C. has undertaken no commitment to widen opportunities or to eliminate existing standards conformance problems for producers outside the E.C. as part of the 1992 process.

Nevertheless, the harmonization of technical standards can potentially create substantial benefits for U.S. companies -- even those operating outside the E.C. itself. Under EC-92, U.S. companies at most will need to obtain certification from only one E.C. authority for the product to be considered as duly acceptable throughout the E.C. market. In some cases, the continuation or renewal of existing international mutual recognition agreements may even mean that normal U.S. certification procedures will also allow products to be certified for use or sale throughout the E.C. But typically such agreements only exist for a limited range of products, and it is unclear how rapidly mutual recognition agreements will be developed under the new E.C. system. And the negotiation of new standards for testing procedures allow scope for the "harmonizing up" of standards to a degree that U.S. producers consider unreasonable, unnecessary or even anti-competitive with regard to world market sales.

The New E.C. Approach to Standardization

Beginning in 1983, the E.C. developed a new approach to product standardization and harmonization, which has been incorporated into the internal market concept. As succinctly summarized in Ernst & Whinney's August 1988 report Europe 1992: The Single Market, "Any product which can be sold in the member state in which it is produced will be freely marketable in other parts of the E.C., unimpeded by diverse national standards or testing and certification practices." The emphasis in this approach is on "mutual recognition and equivalence," as opposed to negotiation of detailed manufacturing and process standards. There are three main ways of introducing this new approach:

- A 1983 directive prohibited member states from creating new technical standards through regulations that would serve as market barriers between E.C. countries;

- A new E.C. standardization procedure was created through the New Approach to Technical Harmonization, formally agreed in 1985;

- E.C. governments will be required to accept agreed guidelines for standards and procedures in testing laboratories. This will mean results from other E.C. countries' certifying laboratories will be accepted by all E.C. countries.

Within this approach, there is a strong distinction between "standards" (defined as voluntary specifications) and "technical regulations" (mandatory requirements imposed by law). The E.C. framework directives deal with technical regulations, where necessary, by setting essential requirements for the E.C. as a whole. The E.C. is also promoting voluntary standardization at the E.C. level, not only for the purpose of fulfilling the legislative goal of mutual recognition and equivalence, but also because common standards in general make economic sense.

How will the Community implement this approach? The basic directives are relatively general. The key question will be how they are to be translated into specific product standards recognized and accepted across the E.C. And while the emphasis may be on mutual recognition and equivalence, these evolving E.C.-wide safety and product standards may affect the manufacturing and application of covered products. For setting industry standards, the E.C. has adopted the approach of reliance on existing private Europe-wide standards institutes for general and electrical products (known by their combined abbreviations as CEN/CENELEC).

The enhanced mandate provided CEN/CENELEC by the E.C., and how this body interacts with the national standards organizations, particularly DIN (Germany), BSI (U.K.) and Afnor (France) are described in detail in the European Commission publication Common Standards for Enterprises (written by Florence Nicolas of Afnor, and published in August 1988). This booklet should be required reading for U.S. companies concerned with CEN/CENELEC, so that they understand the formal rules of the system. The goal, as expressed in this document, is that the process should develop in a transparent manner.

It is, however, far from certain that the development and implementation of standards will be as transparent as either the European Commission or U.S. industry might hope. There are serious concerns among some industries, particularly some U.S. exporters, that the process will not allow non-European comment at a sufficiently early stage to prevent the development of E.C.-wide standards as a trade barrier. An excellent brief summary of this process from the U.S. perspective, which also discusses this concern, has been written by Patrick Cooke and Donald Mackay of the National Bureau of Standards in the article "The New EC Approach to Harmonization of Standards and Certification." It was published in the Commerce Department's bi-weekly magazine, Business America on August 1, 1988, and is appended to this report.

In principle, the adoption of common standards is widely seen by U.S. companies in Europe as a major benefit. U.S. companies with production facilities in Europe believe that they will be able to rationalize production across national frontiers to a much greater degree than at present. This process will be facilitated for companies heavily reliant on road transportation by accompanying liberalization of national rules related to domestic and international trucking. U.S. exporters may achieve comparable benefits. Whatever standard is adopted for a product, the potential U.S. exporter will be assured that complying with this standard provides access to the entire E.C. market.

Despite these potential benefits, there are serious concerns that some European companies with rigid standards currently in place in their home national market will seek to protect and strengthen their E.C. market position by "harmonizing up." That means having the E.C. adopt their own national standards on an E.C.-wide basis. Such an approach would, of course, defeat the purpose of "mutual recognition and equivalence." The need to achieve consensus within the CEN/CENELEC process mitigates against such outcomes, but at present there is a high degree of uncertainty among companies about how the consensus-building process will work in practice.

There are four ways by which U.S. companies can counteract the problem of "harmonizing up" in the E.C. standards-setting process:

-- U.S. companies operating in Europe should participate fully in national and E.C.-wide standards bodies that will have access to the EC-92 standards process. This may be the only way that U.S. companies can obtain access to the standards process during the initial development phase. As non-E.C. producers may be excluded from the early (and crucial) stages of the CEN/CENELEC standard-setting process, it will be important at this stage to identify distributors and potential E.C. production partners who can serve as effective supporters of the U.S. company's position.

-- The E.C. requires CEN/CENELEC to adopt existing International Standards Organization (ISO) or International Electrotechnical Commission (IEC) standards where they exist and are appropriate. U.S. companies should insure that they are familiar with ISO/IEC standards and are prepared to implement them for products sold in Europe. But it should also be recognized that relatively few ISO standards have been developed in many product areas. Recent comments by the CEN/CENELEC chairmen indicate that this latter problem may be alleviated by trying to develop new standards initially at the ISO/IEC level, rather than starting at the E.C. level.

-- All draft CEN/CENELEC standards and specifications are now supposed to be circulated to the American National Standards Institute (ANSI) before final adoption. Concerned U.S. companies should contact ANSI for information on proposed product standards of relevance to them.

Some U.S. companies and industry associations have said that ANSI receives drafts too late in the CEN/CENELEC process to allow timely comment by non-European companies. U.S. companies should indicate to both their E.C.

contacts and U.S. government contacts if such notice is not timely enough to allow for U.S. reaction and input. CEN/CENELEC may reduce this problem through a new monthly publication listing all upcoming product standards projects.

-- In developing U.S. national standards and in participating in worldwide standards bodies, U.S. companies should seek to ensure a maximum level of conformity between international norms and national standards in Europe, North America and Asia.

One final and important note should be added on the development of standards. U.S. companies should expect a general process of upwards harmonization particularly with respect to E.C. environmental standards. Environmental concerns are now of major political importance in the E.C. This is reflected in the addition of an environmental title to the Treaty of Rome by the SEA. And Article 100a.3 now provides that "The Commission in its [internal market] proposals...concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection."

Certification and Testing

Another important question regarding the impact of new E.C. standards procedures involves the mutual recognition and equivalence of testing procedures and results. A draft November 1988 European Commission policy statement on technical specifications, testing and certification provides some clues as to E.C. plans.

The first basic question posed in the draft paper is to what degree and for what products will the E.C. require third-party testing and certification, as opposed to self-certification? The November draft paper indicates that the basic rule could be that self-certification will be applied when product design conforms to an established E.C. design standard. But "when...such standards do not exist," the paper continues, "or...the manufacturer...prefers to apply other manufacturing criteria of his own choice, the demonstration of conformity to the essential requirements should involve the intervention of a third party, either by certification or by independent third party testing."

This approach could have major implications for U.S.-based producers that provide products that probably meet essential E.C. health or safety requirements, but do not necessarily meet specific E.C. design or testing criteria. The issue has been explained thus by a U.S. chemical manufacturer:

> What is of primary concern is that the Directives and Standards flowing from those directives may either ban products for sale in the E.C....or may establish test protocols that are entirely different from those performed in the United States and would require certification that the product has been tested in accordance with these protocols...The concern on the part of U.S. chemical exporters would be the expense of running the new tests and the time lost [of]...2-5 years...This would effectively keep somebody out of the marketplace until the tests had been completed.

To address this type of problem in the past, bilateral agreements have been developed between U.S. and E.C. national or multinational standards authorities on mutual recognition of certification of products or processes. But such agreements cover relatively few products, and only some E.C. member countries. Moreover, in some cases even these bilateral agreements could be nullified by the draft proposal under consideration in the Commission.

However, the Commission's draft statement devotes little time to this important issue. It states that non-E.C. origin products will have non-discriminatory access to E.C. conformity assessment procedures under terms of the GATT Standards Code. But it also notes that the GATT "does not lay down binding obligations...[regarding] participation by foreign testing and certification bodies in mutual recognition arrangements." The paper takes note of existing bilateral arrangements only with the EFTA countries. Otherwise, it considers only the future negotiation of such recognition agreements at the E.C. regional level. The paper does state that in all areas subject to either E.C. or national legislation, no bilateral agreements by member states with non-E.C. countries are allowed, "as such agreements confer easier access for third countries to the common market, which is a matter of common commercial policy under Article 113 of the [Rome] Treaty."

In summary, the E.C. attitude to international mutual recognition agreements will depend on whether products are subject to legislated regulations. If they are, mutual recognition agreements will have to be concluded by the E.C. and bilateral agreements will have to be renegotiated. Otherwise, the issue will be a matter for the private sector, and existing bilateral international agreements will be of no direct concern -- they will be neither enforced nor nullified by the E.C.

The conditions for negotiating future E.C. bilateral recognition arrangements with non-E.C. trading partners are summarized in the November draft statement as follows:

-- The E.C. must be assured of the technical competence of the non-E.C. partner;

-- The agreement must secure reciprocal benefits;

-- Participation in the agreements is limited only to testing and certification bodies actually conducting the tests or issuing the certificates.

Even receiving the new "CE" mark may still not be enough to assure a company that its product will have clear sailing throughout the E.C. market. Concerns have been expressed in Europe that only products meeting national standards criteria and receiving national standards body labels can still be sold in some markets. For example, insurability rules can be used to keep out products not meeting a specified national standard. To ensure adequate preparation for the EC-92 market, U.S. companies should now identify obstacles related to the national application and use of standards that may inhibit E.C.-wide distribution of even those products that conform to new E.C.-wide standards. Then the next step will be to identify potential E.C. and U.S. support for the elimination of such effective barriers.

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2. PUBLIC PROCUREMENT

One of the most far-reaching proposals in the 1985 internal market package dealt with public procurement. The Cecchini report on the economic cost of "non-Europe" calculates that public sector purchasing is equal to 15 percent of the Community's total gross domestic product, or a total of about $600 billion. Currently, just 0.14 percent of GDP, or less than $1 billion worth of goods and services, is purchased from E.C. companies outside the purchasing country's national territory. This shocking statistic lies behind the Commission's drive to open national public sector procurement markets to intra-E.C. competition.

While E.C. directives on public works and supply contracts are currently in force, these are generally perceived as weak and ineffective. Completing the internal market will require government procurement to be based on fair competition as opposed to national identity. This process is effectively to be completed in two steps:

1) Improving existing directives on public works and public supply contracts. The new public supply contracts directive was approved in final form by the Council of Ministers on March 22, 1988 (Directive 88/295/EEC). An amended proposed directive on public works contract procedures was submitted to the Council of Ministers on June 21, 1988, following receipt of proposed amendments from the EP. The Council has adopted a "common position" on this draft directive, indicating general agreement on substance, and the directive should be approved in final form within the next year.

These two directives work in a similar way. The bidding process in each country must be made completely transparent, with the elimination of single-bid or no-bid contracts without adequate public notice. This will be achieved by changes in contract notification procedures. In addition, the legal powers of the Commission to nullify contract awards will be strengthened. It is anticipated that in most cases these powers will be used on an advisory basis with respect to member state governments, before actual contract awards are made.

2) More controversy has been aroused by the other major initiative, the proposed extension of open public procurement rules to previously excluded sectors -- telecommunications, water, energy and transport. The Commission's formal proposals in this area have only recently been announced, in three documents issued on October 11, 1988:

- Proposed directive on procurement procedures of entities providing water, energy and transport services;
- Proposed directive on procurement procedures in the telecommunications sector;
- Communication explaining the Commission's policy proposals in these two areas.

The most important point for U.S. companies is that these proposals create no new rights of access to the E.C. public sector market for products made outside the E.C. The Commission notes in parts II.D and III.F of the October 1988 communication that these sectors are generally excluded from the E.C.'s GATT obligations, therefore, "...Contracting entities are placed under no obligation to apply the provisions of the Directives to offers having their origin outside the Community."

To determine whether a product is covered by these proposed directives, the Commission proposes a 50 percent "local content" test: "...An offer is considered having its origin outside the Community when more than half its value represents goods or services produced or performed outside the Community." This local content rule is subsequently ameliorated for companies with investments in Europe by a broad definition of what may be included as local content: "...In the case of offers from subsidiaries or agents, a substantial part of the value of the offer may represent economic activity within Member States, and can thus be considered of Community origin."

The proposed directives also would create a positive requirement to discriminate in favor of E.C. suppliers over non-E.C. source suppliers, when the cost difference is 3 percent or less of the contract value. There is no sliding scale, so that a 50-percent E.C. content proposal, for example, is just as "European" as an 80-percent E.C. content proposal.

The justification for these actions that frankly discriminate against foreign trade is that the primary beneficiaries of EC-92 should be industry in the E.C. The Commission states that, "First, provisions are needed to defend the Community's commercial interests and preserve its negotiating position by making no unilateral concession but on the contrary creating a positive incentive for third countries to give guarantees of equal access to similar markets." The 50 percent E.C. content threshold and the contract bid margin have obvious precedents in U.S. "Buy-American" legislation. "Second," the Commission paper continues, "Community producers should, where necessary, be given the necessary time for the industrial adaptation required to meet the objectives of 199^ and the day when reciprocal access is finally agreed."

Thus the local content rule on public procurement in the excluded sectors is part of a strategy not just to protect E.C.-based producers, but also to force open public procurement markets internationally. The Commission is also seeking the power for itself and the Council of Ministers to grant other countries access on equal terms to public procurement in the excluded sectors, upon reaching agreement "through bilateral or multilateral negotiations" assuring equal access for E.C. producers in the trading partners' markets. But since it is not clear how successful this strategy will be, the proposed Commission policies will in the meantime perform the second task, that of "providing necessary time for industrial adaptation," or, in other words, protection for developing and restructuring industries.

Insofar as the GATT is concerned, the primary focus of such negotiations would not be the Uruguay Round, in the Commission's view, but rather negotiations among present GATT Procurement Code signatories on expansion of the code. This would have the advantage of including only countries that have already accepted the principles of such a code. It

would notably exclude the less-developed countries. Of course, progress in the Procurement Code could always become part of an overall GATT package that includes the Uruguay Round results. The question of trade reciprocity and EC-92 will be discussed in a broader context in the next section.

Until any reciprocal access agreements are negotiated, the E.C. policy might also be construed as conflicting with the telecommunications provisions of the U.S. Omnibus Trade Act of 1988 (Secs. 1371-1382). This subject will be examined under the telecommunications heading in Section 5 below.

There are two other features of the procurement directives for the excluded sectors which should not be overlooked by companies:

-- First, the directives require that specifications in a contract must be in conformity with existing European standards, except that an indefinite waiver is provided when the contracting authority can show incompatibility with existing national systems and equipment or "disproportionate cost" in effecting a changeover to E.C. standards in the contract. The Commission staff's present expectation is for any such protection to diminish rapidly, to disappear in three to five years.

-- Secondly, the procurement directives in the excluded sectors do not apply to public purchasing authorities per se, but rather to monopoly providers of public services in a country or region -- whether these suppliers are themselves publicly or privately owned. Thus, for example, British Telecom (private) is included as a "contracting entity" as well as the publicly-owned Deutsche Bundespost network or the French PTT. This provision broadens the definition of public procurement, in an era of the privatization of publicly-owned monopoly entities.

This point also could have negative consequences for U.S. companies, depending on the E.C.'s interpretation of the concept of reciprocity of market access. Access to contracts for publicly-owned telecommunications or power projects in the E.C. would depend on the E.C.'s interpretation that their companies (whether in Europe or the United States) had equivalent access to such contracts in the United States, even if most of these contracts are privately let. For example, one large European-owned telecommunications company provided the opinion that such U.S. entities were indeed already open to E.C. equipment sellers to the degree envisioned in these directives -- but another company emphatically held that they were not.

The initial prognosis with respect to the opening of public procurement contracts is that it will proceed slowly, characterized by an interaction of political pressure with the demands for creating a more efficient public services infrastructure compatible with the objectives of EC-92. There is a consensus among both E.C.-owned and U.S.-owned companies in Europe that the proposal will not worsen U.S. companies' existing access to a public procurement market that is highly protected by member state governments and that the process could achieve some increased opportunities for U.S. firms with an investment presence in Europe. It also should be emphasized that, within the E.C., the proposed rule creates an option as far as considering U.S.-content bids are concerned. No purchaser is obliged to set aside a U.S.-origin bid, whatever the level of its E.C.-content.

On the negative side, the explicitly protectionist "buy European" provision will probably be accepted in some form. Some U.S. industries have indicated that the 3 percent margin rule will be a substantial handicap. More generally, the adoption of an explicit local content standard combined with the restriction of public procurement liberalization to E.C.-source products and services is an unfortunate step. It could establish a new and perhaps significant trade barrier between the E.C. and other countries, at the same time as the E.C. and its trading partners are seeking liberalization of trading rules in the GATT negotiating round, and national governments around the world are weighing the advantages of protectionist versus liberal trade policies.

In this environment it is important for U.S. companies to realize, as many already have, that major multinational alliances designed to gain access to public procurement markets in the E.C. could precede, not follow, the effective implementation of EC-92 directives. For example, the last two years in the telecommunications and electronics sectors have seen:

-- The acquisition battle among Siemens, AT&T-Philips and Ericsson for the second-ranking French public network telecommunications equipment supplier;

-- The announcement on February 13, 1989, of a partnership between AT&T and publicly-owned Italtel of Italy in the development and marketing of public and private telecommunications equipment for Italy, Europe, the United States and other markets;

-- The joint GEC-Siemens hostile takeover bid for Plessey, the British defense contractor and electronics firm, a battle in which the U.S. firm General Elective has also played a major role;

-- The IBM-Siemens joint venture in the marketing of private business exchange switching equipment.

The apparent lesson, for U.S. companies who wish to be competitive if the public procurement market opens up, is that it may be risky to await the shakeout of European suppliers or the full opening of the market to outside producers through negotiated trade agreements. Within the excluded sectors public procurement market, the first essential move may be the establishment or strengthening of local ties through the company's own E.C. base and through close relationships with E.C. producers.

3. RECIPROCITY

No issue has been of greater concern to the U.S. public regarding EC-92 than the question of reciprocity and whether the E.C. is seeking to construct a "Fortress Europe." This subject has already been broached in the previous section on public procurement; in the fourth section we will look in more depth at trade reciprocity aspects of policies in specific sectors which are of particular commercial policy interest in the E.C. This section will look at the more general evolution of the reciprocity issue.

In recent months, the outgoing E.C. Trade Commissioner, Willy de Clerq, has stated several times that any opening of the E.C. market to foreign firms would have to be matched by reciprocity in their markets for E.C.-based companies. These remarks contributed to a high level of international concern that the internal market meant the E.C. was retreating into a "Fortress Europe." Foreign access would only be granted on the basis of specifically negotiated bilateral reciprocal agreements. Concern over such an evolution of E.C. policy has been openly expressed here by the Secretary of Commerce and high-level representatives of the State and Treasury Departments.

This concern is amplified because the United States and the E.C. are also participating in the Uruguay Round negotiations on changing the rules in the GATT, the multilateral international trading system. The current commitment is to complete the GATT negotiations by 1990. But it is hardly likely that the E.C., which negotiates as a unit in trade issues with the rest of the world, will make any GATT commitments that would run afoul of its own evolving EC-92 policies on, for example, state subsidies, public procurement, local content and sectoral trade issues.

Another key issue is the question of the rights of foreign-owned enterprises operating in the E.C., in view of the reciprocity policy and Article 58 of the Treaty of Rome. Article 58 provides that any company organized to do business within the EC -- without any explicit statement as to ultimate parentage of the company -- shall be considered as having the same rights under the treaty as a "natural person." The reciprocity approach -- particularly as framed in the draft Second Banking Directive of June 1988 -- seemed to call into question retrospectively the rights of U.S. subsidiaries established in the E.C., if it were determined that their home government did not provide "comparable market access" to E.C.-based enterprises. Reports that the Commission's Legal Service was being asked to review the application of Article 58 to foreign investment within the E.C. added to these concerns, even though no final report on this issue has been produced.

In an important statement issued on October 19, 1988, the Commission sought to define more clearly its position on the general question of reciprocity and related specific issues. The Commission took the unusual step of publicly declaring the outcome of an internal "policy debate" within the Commission itself in this statement, entitled Europe 1992: Europe World Partner. The statement sought to reassure trading partners that "1992 Europe will not be a fortress Europe but a partnership Europe."

On the general issue of reciprocity, the Commission undertook a fundamental definition of this term. The statement emphasized the E.C.'s existing international trade

commitments as well as a commitment to achieve further liberalizations of market access through GATT multilateral negotiations -- but maintained that "It would be premature to grant non-member countries automatic and unilateral access to the benefits of the [E.C.] liberalization process before such new agreements exist." This was a restatement of the basic position of no automatic extension of benefits, without reciprocal rights for E.C. producers in the trading partner's home country.

But the statement followed with an important series of qualifications regarding the meaning of reciprocal access:

-- The E.C. seeks "similar...or at least non-discriminatory opportunities in [foreign] firms' home countries..."

-- "Nor does reciprocity mean that the Community will ask its partners to adopt legislation similar to its own."

-- The E.C. will not seek "sectoral reciprocity based on comparative trade levels, this being a concept whose introduction into United States legislation has been fought by the Community."

The key, in other words, was the general existence of fair and "comparable" market access (a term used in the U.S. International Banking Act of 1978), not mirror market-opening legislation. There would appear, for example, to be leeway for accepting that U.S. state regulations against interstate banking should not be used to bar U.S.-owned banks from acquiring branches across national boundaries in the E.C., as long as the U.S. rules were applied in the same manner to domestic and foreign-controlled banks.

Such an interpretation would conform to the important principle of national treatment. This principle means the treatment of foreign enterprises on the same basis as domestic enterprises and in accordance with international law. It has increasingly gained support as a major principle of international law, in bilateral treaties, in policy positions of the multilateral Organization for Economic Cooperation and Development (OECD) and in U.S. international economic policy positions.

On the other hand, the E.C. would not extend non-discriminatory or "national" treatment to companies in cases where the non-E.C. host government does not provide equivalent non-discriminatory access. For example, blatant discrimination against foreign suppliers through such laws as the Buy American Act would mean that U.S. exporters could not fully participate in the opening of the E.C. public procurement market.

The October 19 statement added a number of important clarifications under the heading of "specific aspects" of application of the policy. Some of the more significant ones for U.S. industry can be summarized as follows:

External aspects of the removal of physical frontiers (quotas): This subject is not, strictly speaking, a reciprocity issue, though obviously a matter of great importance to the E.C.'s trading partners. The statement promised that "Completion of the single market will mean the removal of quantitative restrictions and will require unified [i.e., E.C.-wide]

import rules in respect of non-Community countries. It is possible, however, that in a number of sensitive spheres, national measures will have to be replaced by Community measures." As will be shown in the next section, this particularly refers to automotive quotas. In such cases, the Commission promises, "These measures will not result in a higher level of protection than at present."

Technical standards and public procurement: The Commission reemphasized that the program in these areas would completely respect existing international obligations. As far as standards are concerned, this includes adoption of existing international standards as E.C. standards, where applicable. But both the mutual recognition of testing and certification procedures and access to public procurement in those sectors excluded from GATT agreements would have to be the subject of future negotiations.

Capital movement and financial services: The Commission reaffirmed the principal of erga omnes regarding capital flows, which means free movement whatever the source or ownership of capital within the E.C. (see Section 9 below). The Commission also established some important qualifications regarding the proposed Second Banking Directive and Article 58 concerns of U.S. companies. While indicating possible restrictions on "newcomers" based on reciprocity of access, the Commission stated that "...There can be no question of depriving the subsidiaries of foreign firms already established in Community Member States of the rights they have acquired."

Competition policy and takeovers: In view of the proposed E.C. regulation on competition policy discussed in Section 8 below, the Commission made an extremely significant statement that could have some implications for U.S. companies. It noted that, "Should any Community rules on takeover bids be drawn up, the possibility of including provision for obtaining comparable conditions for Community firms in the non-member country concerned should be considered in cases where a firm from a non-member country is the purchaser."

The general statement on reciprocity has helped reassure U.S. companies presently operating in Europe that they will not be the target of a general "Fortress Europe" policy, which uses U.S. companies in the E.C. as hostages to insure access for the E.C. on totally equal terms in the U.S. market. But the statement is not a blanket endorsement of the national treatment principle -- even though all member states of the E.C. have individually endorsed this principle by signing the 1976 OECD national treatment declaration. And the E.C. has not clearly indicated that it will apply Article 58 as an unqualified basis to future establishment of foreign-owned enterprises in the E.C.

The E.C. has not abandoned its general philosophy of reciprocity as an approach to solving the problem of how to ensure that producers in the E.C. are the primary beneficiaries of EC-92. How this policy may be applied in some important specific sectors is the focus of the next section of the report.

4. SECTORAL ISSUES

A major subject within the EC-92 program is the effect of internal market liberalization on E.C. trade and competitiveness in specific commercial sectors. Generally, the E.C. is moving toward a common commercial policy in such sectors, which means not only liberalization of the internal market, but a common external trade policy, including elimination of remaining national trade barriers against non-E.C. goods. The battle over reciprocity in particular may be mostly fought over such specific sectoral trade issues. All commercial sectors may be affected in varying degrees, but three sectors especially illustrate the broad scope of the policies and practices that will be changed due to the impact of the EC-92 program.

a) Automotive Trade

The "globalization" of existing E.C. national quotas is perhaps the most politically explosive subject on the EC-92 agenda, both among member states and in trade relations with the rest of the world. A U.S. auto company executive in Europe explains why in the following estimate:

> Without quotas and assumed politically motivated restraints in some countries, the overall Japanese share of the European new-car market could rise from the current 11 percent to as high as the 30 percent that we see in North America. That shift would threaten perhaps ten major assembly plants and as many as 300,000 jobs in Europe.

Some E.C. countries, such as Germany and the Benelux countries, maintain no quotas on Japanese car exports to their markets. The U.K. maintains only an informally negotiated industry-to-industry "gentlemen's agreement." This effectively holds down the level of imports to around 11 percent. Also, Japanese companies have been required to meet a local content standard if they are to receive regional aid, and if vehicles from factories in the U.K. are not to be counted against the voluntary restraint agreement. France uses its vehicle registration procedures to keep Japanese imports to 3 percent of the market, while Italy and Spain allow only a small, specified number of units, under quotas registered with the GATT. Thus, not only quota levels but the nature and implementation of the quotas vary significantly among the E.C. member states.

No decision has been taken regarding the harmonization of Japanese car quotas. The French government and automobile industry have pressed for an E.C.-wide quota, with an 80 percent local content standard to prevent Japanese evasion of the quota through assembly operations. Both the German government and car industry have opposed such a stringent quota and local content policy. At this point, only two principles appear relatively certain:

-- There will be some type of E.C.-level restraint;

-- In principle, any restraint will be temporary.

In 1988, the Brussels-based European carmakers association (CCMC - representing all major E.C.-owned companies) did adopt a common industry position. This position called for the stabilization of total Japanese exports to the E.C., at least until E.C. car exports to Japan reached half the level of Japanese exports to the E.C. CCMC called for establishment of an 80 percent E.C.-content standard to determine whether cars made by Japanese producers should count against the number of units included in the stabilization agreement. But under pressure from German companies this common position is currently being reassessed in view of the question of the impact on automotive trade with the United States.

The automotive quota issue is of major concern to U.S. interests for a number of reasons. The two largest U.S. car manufacturers have extensive operations in the E.C. and are among the six companies that hold roughly coequal leading shares of the mass market. At present neither company is actively supporting tough E.C.-wide quotas on Japanese cars. In fact, there is serious concern in Europe that Ford and GM could potentially cooperate with Japanese companies in exporting U.S.-assembled "transplants" into the E.C., to take advantage of low dollar-based costs and avoid any E.C. quotas on vehicles shipped directly from Japan. There are strong disagreements within the E.C. car industry on how this issue should be handled. For its part, the U.S. government has not so far indicated that it would accept any E.C. effort to transfer national E.C. car quotas to a global quota, especially if such a quota were made to apply to goods shipped from the United States.

b) Telecommunications

No issue in EC-92 is thornier than its application to the telecommunications sector. A more efficient, less nationally-oriented and more internationally competitive telecommunications services and equipment sector is viewed as perhaps the crucial link in creating a more integrated E.C. internal market. The Cecchini study reports estimates of telecommunications equipment costs across the E.C. as being 80-100 percent higher than in the United States, with costs of business customer services typically higher by a similar proportion.

The strategy of the Commission is set out in its basic document on telecommunications policy, the "Green Paper" of June 30, 1987. One year later, the Council of Ministers approved a resolution explicitly linking development of a common market for telecommunications services and equipment to the EC-92 program. The telecommunications policy for the Commission is developed within a self-contained telecommunications directorate, DG XIII.

The Green Paper in fact represents a compromise between the traditional European concept of publicly-owned basic telecommunications network services and the newer international trend of establishing a free (or at least freer) market in services using the basic network and the equipment that can be linked to it. Basic services, redefined in the Green Paper as the "reserved services," are those which will be provided by Government-owned or government-licensed telecommunications monopolies, based primarily on the principle of universal access and availability. Traditionally, this has clearly included telephone and telex service.

"Competitive services" are defined as including not only the manipulation and processing of data carried on the basic network, (the so-called "value-added" services) but also providing "intelligent networks" that handle communications according to a customer's own needs, often on equipment that the customer may have purchased and installed from an independent vendor. Another key compromise in the Green Paper is that the national telecommunications administrations (PTTs) would be allowed to participate in the competitive services market, while retaining their regulatory and reserved services functions.

To implement this policy, which leaves the "integrity" of the national basic services network intact, while encouraging the competitive stimulus of alternative equipment and services providers, the E.C. has adopted or proposed a number of specific steps. The development of these specific policy initiatives will be crucial for U.S.-owned companies that hope to be competitive in the evolving E.C. telecommunications market for both services and equipment:

-- Opening of telecommunications procurement. This issue was discussed in the previous section on public procurement. In addition to the comments above, it should be noted that the draft directive of October 1988 requires a compulsory public and international call for all works and supply contracts. This includes a compulsory annual information notice announcing all intended purchases for the year ahead. Also, as with existing procurement directives, there is a requirement for full transparency of the purchasing behavior of the telecommunications entities in E.C. member states.

The E.C. policy does not initially address continued discrimination against non-E.C. source products and services. It does allows member countries at their discretion to entertain competitive non-E.C.-source bids. And, as mentioned earlier, it indicates that the E.C. intends to negotiate bilateral and multilateral market access agreements.

The policy apparently conflicts with the telecommunications reciprocity provisions of the U.S. Omnibus Trade Act. Section 1374 of the U.S. law provides for the citation by USTR of those foreign countries denying equivalent market access to U.S. firms. In an announcement of February 21, 1989, the USTR stated that this provision at present includes some E.C. countries. The draft E.C. procurement directive would in principle ameliorate the current situation by guaranteeing equal access for those U.S. firms operating in the E.C., which provide products and services meeting the E.C. local content standard. However, the U.S. Trade Act provisions are also concerned with improved markets for U.S. exports, which would not be enhanced by the provisions of the draft telecommunications procurement directive, unless E.C. member states decided to accept U.S.-source bids.

Accordingly, the Office of the USTR identified the E.C. (along with Korea) as a "priority country" for negotiations involving telecommunications market access, as provided by the Trade Act. This decision is directed at existing market barriers to U.S. products and services. The USTR announcement does indicate that the degree of access varies considerably within the E.C.

-- Provision of terminal equipment and telecommunications services. In addition to the effort to open the public procurement market, the E.C. has already adopted a directive

requiring member countries to eliminate all exclusive and special rights to telecommunications entities for the importation, marketing, connection and maintenance of telecommunications terminal equipment. The terminal equipment directive entered into force on May 16, 1988. But France has challenged the validity of this directive before the Court of Justice, on grounds that the E.C. has overreached its treaty authority. Meanwhile, there is a similar draft directive under discussion that would require member countries to eliminate exclusive or special rights granted to telecommunications entities for the provision of "non-basic" telecommunications services.

-- European Telecommunications Standards Institute (ETSI). In conjunction with CEN/CENELEC, this body will establish agreed European standards for telecommunications equipment and services. The significance of ETSI is that it removes this function from the exclusive control of the European Conference of Postal and Telecommunications Administrations (CEPT), a collaborative body consisting solely of PTTs. CEPT will participate in ETSI standard-setting, but ETSI will also include other equipment and services providers, and user groups. ETSI, located in the south of France, began functioning in April 1988. All E.C. member state telecommunications authorities are now required to use agreed European standards as the basis for type approval of telecommunications terminal equipment.

-- E.C.-sponsored research on common standards in advanced technologies (RACE and ISDN). The Council of Ministers in 1986 approved a non-binding Recommendation on the coordinated introduction of an Integrated Services Digital Network. This will allow Europe-wide voice, video and data capabilities via the national telecommunications network. In December 1987, the E.C. also approved the "main phase" of the RACE project, RACE being an acronym for a program of pre-competitive R&D aimed at creating common standards in Europe for integrated "broadband" voice, video text and graphics communication. The main phase of RACE (to be completed by 1992) is open to the European subsidiaries of U.S. companies.

-- Open network provisions (ONP). The Commission is currently preparing a directive on the conditions of access to networks. An initial proposal was approved in December 1988.

c) Information Technology and Advanced Electronics

The E.C.'s collective sense of inferiority regarding telecommunications equipment and services extends to information technologies more generally. While there are many excellent and world-class E.C.-based companies in this broad field, most observers believe that the E.C. lags behind both the United States and Japan in many key areas, and that the balkanization of the E.C. market has been a major cause of this lag.

On the other hand, the E.C. seems more committed as a matter of policy to ensure that it retains a competitive base in the information technologies and electronics products industries -- across the board from chips to consumer products. There is a strong sense among many E.C. companies and other groups that the U.S. policy of opening its consumer electronics and telecommunications equipment markets to foreign producers, without adequate safeguards against import surges, dumped goods and predatory pricing, and without requiring reciprocal access, was a major mistake.

It would be wrong, however, to indicate that there is a complete consensus within the E.C. as to the policy measures needed to improve E.C. world competitiveness in the advanced electronics industries. In this report, we will focus on one particularly significant E.C.-sponsored research program -- ESPRIT -- both as a guide to the E.C.'s overall policy direction and to the relationship with U.S. interests.

ESPRIT is the acronym for the European Program for Research and Development in Information Technology. ESPRIT was established in 1984 to promote precompetitive intra-European technological research cooperation on information technology projects with commercial applications. The program provides matching funds (on a 50-50 basis) for approved precompetitive research projects selected from corporate, academic and government research laboratory proposals.

The first phase of ESPRIT, with a total budget of 1.5 billion ECUs (nearly $2 billion), was completed by 1988. To quote from a recent article on ESPRIT by Jonathan Todd in the May 1988 issue of the E.C. Delegation magazine Europe, the program "concentrated on microelectronics, advanced information processing systems (including software) and application technologies, including computer-integrated manufacturing and office systems." The Council of Ministers was sufficiently impressed with the results of the program to double its budget for the period 1989-93.

U.S. companies in Europe have been concerned that the goals of ESPRIT may be more oriented to improving the competitiveness of E.C. firms, rather than E.C.-based industry. This is perceived by some companies as reducing the opportunities for participation by U.S. firms operating in Europe. For example, the Todd article, which summarizes numerous projects, fails to mention any non-E.C. firms, even though U.S. companies operating in Europe played important roles in some ESPRIT projects. Similarly, some U.S. companies operating in Europe, that have developed proposals relevant to ESPRIT and other E.C.-sponsored research programs, have been informally advised to allow E.C. companies to take the lead in proposing such projects to insure approval.

Heightening this concern over possible current "second-class status" for U.S. companies' participation in some E.C.-sponsored research programs is the fear, mentioned by at least one U.S. company, of an E.C. backlash against similar tendencies in U.S. government-supported programs in semiconductor and superconductivity research. Sources in the Commission note that Sematech and MCC remain closed to E.C.-owned, U.S.-based companies. If this "model" is pursued, they argue, in combination with Defense Department research that remains mostly closed to E.C. companies, then questions of mutual levels of access will increase on the E.C. side.

The primary consequence of exclusion of U.S.-owned firms from such officially-sponsored E.C. research could be in the standards area. One example may be seen in the Todd article, which cites, "'Herode,' a highly successful ESPRIT project led by Siemens, [which] developed a new international standard for office documentation architecture (ODA), now officially adopted by the International Standards Organization (ISO 8613). Siemens has been joined by ICL, Olivetti and Bull on a new project to develop practical applications for ODA, which must compete on the market against IBM's DCA/DIA standard." But, in fairness to the E.C., it should be noted that there are many ambiguities regarding competition and

cooperation in these evolving information technology fields. For example, the Commission cites the fact that IBM Germany does have a minority participation role in the ESPRIT II ODA continuation project.

The general development of E.C. standards in information technology is proceeding through the application of the principles of Open Standards Interconnection (OSI). All U.S. companies with an interest in the E.C. market should become familiar with the E.C.'s OSI process. With the support of the E.C., an informal European Workshop on Open Standards (EWOS) has been established for the purpose of coordinating input from standards bodies, user groups and manufacturing organizations to develop E.C. standards in the evolving information technology field. EWOS is also to discuss standards issues with equivalent U.S. and Japanese groups. At the same time, OSI-based procedures for product testing and certification are also being established.

5. RULES OF ORIGIN AND LOCAL CONTENT

The previous sections raise a number of general questions about local content policies in the E.C. and rules of origin. These will be important issues in the context of the overall development of the EC-92 program. At present, the E.C. does not maintain a general local content policy. And rules of origin for non-preferential trading partners, such as the United States and Japan, are based on a rule adopted in 1968. This states that origin is conferred in the country where the last substantial process or operation that was economically justified was performed, providing also that a new product was thus created, or at least a major new stage in the manufacturing process resulted. This rule is similar in nature to the "substantial transformation" test used by the United States.

Since then, the E.C. has considered and adopted criteria to determine the last substantial operation for a number of specific products, such as radios, televisions, tape recorders, textile products, ceramic products and roller bearings. Currently, decisions are being made regarding rules of origin for semiconductors and copiers. As the subjects of these "rules of origin" decisions become more numerous, the concern is increasing that a de facto local content policy will emerge.

Local Content Rule for Antidumping Enforcement

The E.C. does maintain percentage content rules in some specific cases. Perhaps the most important example of such rules is the 40-percent local content rule applied to companies found to be dumping or illegally subsidizing exports to the E.C. market. An E.C. regulation of July 1988 (EEC 2423/88) on application of antidumping or countervailing duties addresses the problem of "screwdriver" plants -- that is, final assembly operations that may be established to circumvent E.C. anti-dumping penalties. This regulation provided that anti-dumping duties could be applied to products whose final assembly was in the E.C. The penalty can be applied to goods shipped under the following conditions:

- Assembly is carried out "by a party which is related or associated to any of the manufacturers whose exports of the like product are subject to a definitive anti-dumping duty..."

- The "value of parts and materials" produced in the country of exportation subject to the anti-dumping rule is more than 60 percent.

- The assembly operation is started or substantially increased after the anti-dumping investigation was opened.

This 40 percent rule can be ameliorated by the possibility of including costs of "research and development carried out in and the technology applied within the Community." According to Commission staff sources, the E.C. has in practice reached accommodations with related assembly companies in "virtually all anti-circumvention cases." At the current time, there are no duties being levied at the premises of assemblers in the E.C.

What is especially important from the U.S. perspective is that the the terms of this regulation could apply to production arrangements in third countries. However, the

40-percent content rule is not necessarily an E.C. content rule. Paragraph 5 of the regulation states that, "Where a product is imported into the Community from more than one country, duty shall be levied...on all imports of such product found to be dumped or subsidized...other than imports from those sources in respect of which undertakings have been accepted." (Emphasis added.)

Rules of Origin Applied to Goods from EFTA and ACP Countries

Members of the European Free Trade Association (Norway, Sweden, Iceland, Austria, Switzerland and, by associate status, Finland) have a reciprocal free-trade agreement with the E.C. The rule of origin applied to EFTA goods with respect to eligibility for free access to the E.C. market is 40 percent EFTA country content. This same level of local content is applied to goods shipped to the E.C. from over 60 African, Caribbean and Pacific area developing countries (ACP), which have a one-way (non-reciprocal) trade agreement with the E.C. under the terms of the Lome Convention. These are preferential access agreements, and the content standards applied to goods shipped to the E.C. from EFTA and ACP trade partners have, at present, no implication for more general trade and investment relations with other non-preferential trading partners.

E.C. Content and Rules of Origin under EC-92

No general guidelines for local content rules have yet been developed in EC-92 proposals, beyond those already discussed in detail with regard to public procurement in the excluded sectors. This comment includes the areas for which reciprocal access agreements may be considered. Other areas where such rules may be considered and developed notably include the question of harmonized rules governing state aids and subsidies to investors, particularly in economically depressed regions and industries. This may require a decision regarding minimum levels of local content for an industry to be eligible for such assistance, an issue which has already arisen, for example, in the case of U.K. regional aid for the Nissan "Bluebird" factory in Sunderland.

EC-92 is not proceeding in a vacuum, but at the same time as the GATT Uruguay Round. Local content rules are prominent among the issues being discussed at the GATT, principally in conjunction with efforts to address trade-related investment measures. The E.C. has in generally supported the U.S. view that such measures should fall under GATT restrictions or prohibitions. It is a concern of both U.S. industry and the U.S. government that the evolution of E.C. policy, particularly in establishing E.C.-wide rules to harmonize existing national practices, should not conflict with the progress made in expanding GATT discipline over local content rules and policies.

6. INTELLECTUAL PROPERTY

The adequate protection of intellectual property rights is a major concern of both NAM member companies and U.S. international economic policy. A quick glance at the official U.S. balance of payments statistics reveals why. In 1987 -- the last year for which complete data are available -- U.S. companies reported earning over $9 billion from foreign sources in licensing fees and royalties, while paying foreigners only $1.3 billion. This 7:1 ratio remains the most asymmetrically positive component of the U.S. current account balance. It explains the major national interest, for example, in achieving a provision on intellectual property rights as a major goal in the current GATT negotiating round.

E.C. companies and member states also have a strong interest in protecting intellectual property rights, both internationally and within the E.C. context. The effort to achieve an improved and harmonized system of intellectual property rights within Europe antedates the 1992 internal market program, though the effort remains incomplete and unfinished. For example, an E.C. Patent Convention was signed in 1975. However, as of late 1988, five of the smaller or newer member states (Denmark, Ireland, Spain, Portugal and Greece) still had not signed the convention. A European Patent Office, with membership extending to many non-E.C. European countries, has been established in Munich. Completing and improving a harmonized E.C. intellectual property rights system is seen as an important task if a more integrated internal market is to be achieved. It is also considered essential to the development of world-class competitive technologies across European national borders.

A summary of some of the major intellectual property initiatives and their present status follows. It is largely based on information provided in the latest Business Guide to EC Initiatives, published by the American Chamber of Commerce in Belgium (see appended guide to information sources).

Regulation on Counterfeit Goods (adopted 1986 by Council of Ministers, entered into force January 1, 1988). This regulation established an E.C.-wide policy to allow the confiscation of counterfeit goods imported from third countries, thus preventing their circulation and sale anywhere within the E.C. The regulation, it should be noted, applies only to goods which infringe registered trademarks. The regulation could be enlarged to include other intellectual property rights such as copyrights in 1991.

Regulation on Community Trademark and Community Trademark Office (consolidated text including member state reservations before Council for final action). This could establish a central E.C. Trademark Office in Madrid, with a Board of Appeal in Luxembourg, the seat of the ECJ. It would eliminate the present need to register trademarks in each of the ten separate national jurisdictions (Benelux presently maintains a single system for those three countries) -- though these national systems would not be eliminated.

Benefits for U.S. companies could include the elimination of national compulsory use rules, since once the trademark has been used in one member state, it would be valid throughout the E.C. Also, recognition of an infringement in one member state could also be extended to prevent use in all other E.C. markets. But the current E.C. proposals

contain provisions that could create some potential disadvantages for U.S. companies. These include a proposed cumbersome search procedure and the possibility that the refusal of one national registry to accept a proposed trademark application means a failure in all E.C. jurisdictions.

Directive on Trademarks (adopted in final form in December 1988). This important directive will establish harmonized national trademark rules. It includes a five year compulsory working proposal -- the trademark must be put to use within five years in the member state where registered, or be revoked on an E.C.-wide basis. Use in one member state validates the trademark for the whole of the E.C., which would be to the advantage of U.S. companies. All member governments are required to adopt conforming legislation within three years of final adoption by the Council of Ministers.

Community Patent Convention (signed 1975, but still not ratified by five E.C. member states, as indicated above). Once all E.C. members have signed, the CPC will protect patent rights in each E.C. country and the patent will have the same force in all E.C. member states.

Commission Green Paper on Copyright and the Challenge of Technology (issued June 7, 1988). This document outlines the copyright issues requiring immediate E.C. action, regarding application of copyright recognition to newer electronically-oriented technologies. The paper also provides a basis for the future E.C. role in the international development of intellectual property rights. As a result of the green paper, the EC Commission has proposed a directive that would extend copyright protection to computer programs. Such programs would generally be protected as other literary works under the Berne Copyright Convention. Other initiatives concerning electronic data bases and digital audio tape are likely to result from the green paper. The broadening of protection complements similar steps in the United States that have been supported by industry.

Directive on Semiconductor Topographies The E.C. has adopted a directive on the copyright protection of semiconductor designs, but only five countries (Germany, Denmark, France, U.K. and the Netherlands) have so far implemented this directive.

One further issue that should be noted here is the reciprocal treatment of E.C. intellectual property rights under Section 337 of U.S. trade law. Recent reports indicate that a GATT panel has upheld the E.C. claim. The E.C. argued that Section 337 discriminates unfairly against foreign companies that export to the United States by setting up a separate process under the International Trade Commission, rather than the federal courts, for claims relating to ownership of intellectual property rights. It was argued by the E.C., apparently successfully, that Section 337 procedures do not provide the importers with defenses comparable to those available in purely domestic cases. Since a final GATT decision has not been announced, it is not yet clear what impact this decision will have on U.S.-E.C. relations in the intellectual property rights area.

7. SOCIAL DIMENSION

The previous sections in Part II have all dealt with issues involving international trade questions and the reciprocal treatment of companies and products by the E.C. and the United States. The last three issues are different, in that they do not directly involve U.S.-E.C. economic relations, but general policy choices by the E.C. that may have a major effect on how U.S. companies do business in the European Community.

The question of the social dimension of the Internal Market has become one of the most critical subjects associated with EC-92. This is especially due to the goal of increased employment opportunity throughout the E.C., as discussed in the first part of this paper. And there have been important debates within the E.C. over the most appropriate and effective E.C. role in addressing the social dimension. This debate was stimulated by a speech that Commission President Delors made in 1988 to the annual meeting of the British Trade Unions Congress. He declared, "It is impossible to build Europe only on deregulation...The social dimension is a vital element."

What is meant by the "social dimension?" It has been defined by Delors himself in this way:

- First, measures adopted to complete the large market should not diminish the level of social protection already achieved in the member states.

- Second, the internal market should be designed to benefit each and every citizen of the Community. It is therefore necessary to improve workers' living and working conditions and to provide better protection for their health and safety at work.

- Third, the measures to be taken will concern the area of collective bargaining and legislation.

Some approaches to developing these points may be seen in a lengthy "Working Paper" on the Social Dimension, released in September by the Commission. It reflects a series of views within the Commission, primarily DG V (Employment, Social Affairs and Education). The paper basically combines two strands of action, both contained in Delors' more formally stated views.

First, there is a major concern expressed in the paper with improving labor mobility, training (especially in the poorer regions) and occupational health and safety protection. This agenda merges rather well with the Cockfield White Paper of 1985. The White Paper emphasized the physical mobility of persons and specifically proposed directives to harmonize health and safety standards for workers throughout the E.C.

European business, including U.S. companies operating in Europe, have been active supporters of the EC-92 program, and have tried to assist President Delors in increasing the momentum in public support for the program. This has included very positive support for the goals of EC-92 regarding increased worker mobility, improved working training and

a generally more competitive labor market infrastructure throughout the E.C. For its part, the Commission has been extremely interested in examining innovative approaches from outside the E.C. itself, including the United States, Japan and the EFTA countries.

Secondly, the Working Paper also included proposals to establish E.C.-wide collective bargaining and mandatory employee consultation and information rules, long-standing goals of some European labor federations. It further suggested that EC-92 and consolidation of the internal market had led to concerns about "social dumping," the migration of industry to areas in the E.C. with low wage levels and, in the view of European labor federations, low standards of worker rights protection.

Four specific proposals or issues now before the Council of Ministers, all having a long history that predates the EC-92 proposal, are related to this second agenda:

1) Worker Consultation and Information. This was the subject of the controversial "Vredeling Directive" of 1980, which still formally lies before the Council. It is unlikely that the Vredeling proposal, with its requirement of extensive sharing by management of commercially-sensitive information with employee representatives in advance of corporate decisions, will be acted on in the near future. While the September 1988 working paper indicates that some type of general consultation and information proposal should be considered as part of the Social Dimension package, several draft documents relating to this issue have been withdrawn or sent back for redrafting, indicating lack of a consensus on this subject.

2) Workplace Health and Safety Directive. Since final Council action will probably be delayed indefinitely on a worker consultation and information directive because of its controversial nature, we can anticipate that there will be efforts to achieve some of these objectives partially through policy in other functional areas. One possible example is the proposed framework directive of March 1988 on health and safety in the workplace, which aims at achieving a uniformly high standard of worker protection at the workplace throughout the E.C.

The general goal of this directive is supported by E.C. industry, in keeping with general business support for E.C. safety standards on specific problems such as noise in the workplace or exposure to asbestos. For the most part, the draft directive focuses on employer and worker responsibilities regarding safety and health standards, actions and training in the workplace environment. However, Article 5 ("Employer Obligations") would require that all "planning and introduction of new technologies shall be undertaken in close cooperation with the workers and/or their representatives, particularly in respect of the choice of equipment and the working conditions, including those aspects connected with the working environment and the physical and psycho-social well-being of the individual." Such language could obviously be subject to expansive interpretation.

3) The European Company Statute. President Delors has revived the proposal to allow companies to choose to incorporate as "European" companies, rather than as companies organized in a specific member state. Potentially, this could allow a company to gain certain tax advantages, from being able to consolidate financial reporting at the European level. But Delors' initial proposal would require that a company choose some type of

formal system of worker participation in management decisions. Following the initial negative reaction by industry, the Council of Ministers directed the Commission to draft a new European Company Statute proposal in early 1989.

4) Fifth Company Law Directive. The company law directives are generally aimed at harmonizing corporate practices and structures throughout the E.C. The Fifth Directive concerns the organization of public limited companies and their management structure. The major controversy since the initial proposal of the directive in 1972 has been the proposed requirement for some type of employee participation in the company's overall board structure. Having been approved with amendments by the European Parliament, this directive is now again the subject of consultations between the Commission and the Council of Ministers.

Employers' Views

At present, NAM and other U.S. employers' organizations in the United States and Europe are developing a common position in response to the Social Dimension program. In general, these organizations have reacted favorably with respect to the first part of the Commission agenda, which focuses on improving the overall E.C. standard of worker education, training and mobility, and thus contributing to a reduction of the high rate of unemployment in Europe. In recent years, representatives of member companies have met in a series of seminars with Commission staff to explore U.S. and E.C. private and public sector cooperative approaches to these issues.

On the other hand, the reaction of business organizations in Europe has been negative to those proposals which seek to expand consultation and information requirements on an E.C.-wide basis. While no new formal position can be taken until further draft proposals are submitted, the view on existing proposals is that they are not necessary for the development of a more integrated internal market. Indeed, "harmonizing up" in terms of creating more rigid labor policies may reduce investment in those areas that need it the most. And there is widespread evidence, cited in the Commission's own studies, that more rigid labor relations rules that restrict the flexibility of management decisions will add to the unemployment problem in the E.C., not reduce it.

There is little possibility at present that these kinds of proposals could achieve the unanimous approval in the Council of Ministers which will be required under Article 100a for adopting policies affecting social affairs and employee rights. In particular, the U.K. government, with the strong support of British industry, is committed to oppose any new E.C. industrial relations policy which it believes will destroy the balance that it feels has been restored in British labor-management relations over the last decade. The concern remains in some quarters, however, that an effort will be made to achieve such policies through directives and other proposals ostensibly related to the other areas covered by the Internal Market program. This could lead to a confrontation within the E.C. over the interpretation of the SEA itself.

8. COMPETITION POLICY

The E.C. actively and directly regulates competition in Europe, under authority assigned to it by Articles 85-86 of the Treaty of Rome. This means that the E.C. may establish regulations which have the force of law within the member states. DG IV is the competition policy directorate. Since the 1985 Cockfield White Paper was developed in DG III, it did not include any specific competition policy proposals. However, there is no doubt that major changes in competition policy within Europe must accompany the development of EC-92.

This is because member state governments also retain rights of regulating competition. The coexistence of E.C. and member state regulation creates a patchwork of rules regulating mergers and takeovers within the E.C. and results in companies in different E.C. countries playing by quite different rules. The assumption is that member state governments, through their own competition and merger control policies, should not be able to frustrate cross-border mergers and acquisitions needed to create larger economies of scale and enhance E.C. international competitiveness. And because U.S. companies have typically expanded in Europe by acquiring existing E.C. firms or establishing joint venture arrangements with them, any major changes proposed in competition policy will have a major effect on the ability of U.S.-owned firms to cope with EC-92 market changes.

E.C. enforcement of competition policy has been restricted to company practices, and has not included direct control of mergers and acquisitions. Each country has its own policy in this latter area. The U.K. and Germany have the most aggressive national antitrust policies of the U.S. type, enforced through the Mergers and Monopolies Commission and the Bundeskartellamt, respectively. Other countries, such as France and Italy, do not have highly developed antitrust policies, but do control company actions and merger activities as a function of national industrial policies, tax laws, price controls and other policies. Among all the E.C. countries, only the U.K. allows hostile takeovers similar to the U.S. model. And some specifically discriminate against foreign acquisitions -- the Netherlands, for example, allows only 20 percent of the voting shares of any publicly-owned Dutch company to be held by foreign persons.

Proposals to establish direct E.C. control over mergers and acquisitions have been debated in Community institutions for fifteen years, with little forward progress. But the imminence of the enhanced internal market has spurred progress toward achievement of a new E.C. regulation in this area. The major proposal to emerge from DG IV, under the leadership of departing Commissioner Peter Sutherland, is the revised draft regulation to establish E.C. control over all mergers "having a Community dimension." It was proposed by the Commission in May 1988, after considering EP amendments to earlier drafts. Several revised versions have subsequently been circulated.

This draft regulation would establish E.C. control over all proposed "concentrations" (mergers and acquisitions) of companies with an E.C. dimension. An E.C. dimension is defined as --

-- Worldwide turnover greater than 1 billion ECUs for the companies combined;

-- Aggregate E.C.-wide turnover of 100 million ECUs, with no more than 75 percent of the total in any one E.C. member state.

In a recent twelve-month period, the Commission counted 171 transactions that would have exceeded the turnover thresholds of the regulation, though only a relatively small share of these also met the distribution requirement. For such major cases, the Commission's intent is that it should become the sole regulating body. The preamble to the draft regulation states that, "In order to provide for a uniform system of control of concentrations having a Community dimension throughout the common market, the Member States must refrain from taking any measure which might undermine the full effect of decisions pursuant to this Regulation." (Paragraph 27, quoted from draft of July 25, 1988.)

Because the Treaty of Rome limits E.C. authority to the competition policy area, however, the very next paragraph establishes a major qualification: "...This principle does not prevent Member States from taking measures with a view to protecting legitimate interests other than competition..."

This qualification may critically affect the attitude of both E.C. companies and U.S.-owned companies active in Europe. There is strong acceptance of the concept of a Brussels-based competition policy authority, which could expedite the approval of mergers and acquisitions creating larger economies of scale in the E.C. On the other hand, both U.S. and many E.C. companies are concerned about the "double jeopardy" aspect of establishing a Brussels-based merger authority, while continuing to maintain a veto authority in the national capitals over acquisitions.

There is also a further issue that affects U.S. interests and that also currently obstructs U.K. acceptance of the principle of an E.C. merger regulation. This is whether there should be a single E.C. policy on hostile takeovers. Britain, virtually alone in the E.C., currently allows hostile takeovers (witness the recent battle between estle and Suchard, two Swiss confectionery companies, for the British company Rowntree Mackintosh, a firm with widespread activities and brand recognition throughout the E.C.). The U.K. government can stop takeovers, but principally on competition policy grounds. In the British view, it would be unfair to disarm the U.K. government's major defense against large takeovers that it views unfavorably, while permitting the effective ban on hostile takeovers in other E.C. countries.

This British view could force the E.C. and its members into a harmonization of takeover rules. Certainly it is interesting that the new British Conservative Commissioner, Sir Leon Brittan, who has been politically very close to Prime Minister Thatcher, has been selected to replace Sutherland as the competition policy commissioner. U.S. business readers should also recall the point noted earlier in discussing the Commission statement on reciprocity of October 19, 1988 -- that in applying any common takeover policy to non-E.C. firms, the Commission will consider the reciprocal rights of E.C. firms in the acquiring company's home market.

9. MONETARY POLICY

The commitment of the E.C. to closer monetary policy coordination will have a major impact on the way U.S. companies do business in Europe. At the same time, there are major issues in this area that will influence international monetary policy and exchange rate developments, and therefore the conditions of U.S. international trade.

In 1988, there were two critical developments:

1) Full Liberalization of Capital Movements within the E.C. On June 24, 1988, E.C. finance and economics ministers, meeting in the Council of Ministers, gave final approval to a directive providing for complete liberalization of capital movements within the E.C. This means the elimination of all foreign exchange controls. In addition, all domestic monetary regulations that have a specific impact on capital transactions with nonresidents are subject to a notification procedure.

All E.C. member states must eliminate any remaining capital movements restrictions by July 1, 1990, except for Spain, Ireland, Greece and Portugal, who have a grace period through 1992. The Belgium-Luxembourg economic union must also eliminate its dual exchange rate by the end of 1992. The balance of payments safeguard provisions of the Treaty of Rome remain in effect, but the Commission will have supervisory authority over the implementation and maintenance of emergency exchange controls by members. U.S. companies operating in the E.C. can therefore look to essentially complete implementation of free capital movements within the E.C. between now and 1992.

2) Monetary Union. Agreement on the capital liberalization directive both cleared the way for and impelled the E.C. toward consideration of an economic and monetary union. The success of the European Monetary System (EMS) also encouraged a strategy of closer monetary policy cooperation. The Hanover E.C. summit of heads of government on June 27-28, 1988, therefore decided to establish a committee with the task of studying and proposing concrete stages leading toward such a union. The nature and topic of study was the result of a compromise. Most E.C. governments would have been willing to include explicitly on the agenda the exploration of the questions of an E.C. central bank and a single E.C. currency, but such far-reaching measures were opposed by the British government, which has yet to join the EMS.

The importance of this subject to President Delors, formerly French finance minister, is indicated by the fact that he is personally chairing the study committee, and also holds the new Commission's monetary affairs portfolio. The leaders of E.C. central banks were also requested to join the committee in their "personal" capacities. The committee is to report its findings "in good time" before the scheduled heads of government summit in Madrid, in June 1989. Current plans call for release of a report in the spring, midway between the installation of the new Commission and the Madrid summit.

The report of the Delors committee will almost certainly make policy recommendations that go beyond the type of consultation and coordination of policies now existing within the EMS or the broader G-7 group of industrial countries. It is assumed that there would be some mandatory policy coordination features. Leaving aside the question of the British

relationship to closer coordination, another essential issue is whether there should be a "once for all" major reevaluation of the Deutsche mark before implementation of some type of mandatory coordination system. Rates in the present EMS range keep other E.C. currencies, notably the French franc, closely aligned with the DM, and therefore effectively overvalued with respect to industrial competitiveness in third country markets. But the effect of a close EMS relationship with a strong DM has also had the salutary effect of sharply reducing inflation rates throughout the E.C.

The outcome of these discussions and decisions will have a major impact on U.S. international industrial competitiveness. The movement of the DM within the EMS will affect both dollar-rate production costs within the E.C. and the competitive prices of German and other E.C. manufactured goods on world markets. Of equal significance to U.S. companies, in combination with the complete liberalization of capital movements planned by 1990-92, will be the impact on production location decisions within the E.C. itself.

10. OTHER POTENTIAL ISSUES

Export Controls

An issue not covered by the general European Commission reciprocity statement of October 1988, but related to U.S. and E.C. trade policies is the export control question. The general U.S. business assumption is that EC-92 will eventually have to include a common export control policy. Presently, enforcement of the controls agreed by the international Committee for the Control of the Export of Strategic Commodities (COCOM) is heavily reliant on national customs inspections. But these will be eliminated within the E.C. by 1992. Individual E.C. countries now maintain national control systems of varying effectiveness, which has led to U.S. concerns over diversions of national security-sensitive products and technologies.

It is not yet clear exactly how the U.S. government and the E.C. will resolve differences in export licensing practices under EC-92 and how such arrangements may affect U.S. companies. But this is an issue that should be monitored closely by American high-technology companies.

Defense Procurement

Procurement for non-military purposes in the E.C. is already covered by the existing procurement directives, which are to be enhanced as part of the EC-92 program. However, procurement of material for specifically military purposes is excluded from both the GATT code and existing E.C. directives. The October 1988 communication on the excluded sectors indicates that there are no further policy proposals at this time relating to military procurement, but states that the Commission should consider some initiatives in the near future, so that "their adoption and implementation are in concordance with the realisation of the Internal Market by December 31, 1992."

The Commission statement does not indicate that improved world competitiveness by E.C. producers should be a consideration in this policy. Rather, it relates the policy to security cooperation that would enhance development of a "European identity in external policy matters." This also conforms to the political cooperation provisions included in the Single European Act. It is not yet clear what effect proposals on intra-E.C. defense procurement will have on the U.S. defense industry or existing procurement arrangements within NATO.

APPENDIX I

MEMBERS OF THE COMMISSION AND THEIR RESPONSIBILITIES
(As of January 1, 1989)

Jacques Delors (France)	Secretariat-General (including internal services) Legal Service Monetary Affairs Forward Studies Unit
Frans Andriessen (Netherlands)	External Relations and Trade Policy Cooperation with Other European Countries
Henning Christophersen (Denmark)	Economic and Financial Affairs Coordination of Structural Funds Statistical Office
Manuel Marin (Spain)	Cooperation and Development Fisheries
Filippo Maria Pandolfi (Italy)	Science, Research & Development Telecommunications, Information Technology and Innovation Joint Research Center
Martin Bangemann (F. R. Germany)	Internal Market and Industrial Affairs Relations with the European Parliament
Leon Brittan (United Kingdom)	Competition Financial Institutions
Carlo Ripa di Meana (Italy)	Environment Nuclear Safety Civil Protection
Antonio Cardoso e Cunha (Portugal)	Personnel and Administration Energy and Euratom Supply Agency Small Businesses, Distributive Trade and Tourism
Abel Matutes (Spain)	Mediterranean Policy Relations with Latin America North-South Relations

Appendix I (Cont.)

Peter Schmidhuber (F.R. Germany)	Budget Financial Control
Christiane Scrivener (France)	Taxation and Customs Union
Bruce Millan (United Kingdom)	Regional Policies
Jean Dondelinger (Luxembourg)	Audiovisual and Cultural Affairs Information and Communication A "People's Europe"
Ray MacSharry (Ireland)	Agriculture Rural Development
Karel Van Miert (Belgium)	Transport Credit and Investment Protection and Promotion of Consumer Interests
Vasso Papandreou (Greece)	Employment and Industrial Relations Social Affairs Human Resources Education and Training

Information provided by EC Office of Press and Public Affairs (Washington, D.C.).

DIRECTORATES-GENERAL

DG I	External Relations
DG II	Economic and Financial Affairs
DG III	Internal Market and Industrial Affairs Task Force: Small and Medium-sized Enterprises
DG IV	Agriculture
DG V	Employment, Social Affairs and Education
DG VI	Agriculture

Appendix I (Cont.)

DG VII	Transport
DG VIII	Development
DG IX	Personnel and Administration
DG X	Information, Communication and Culture
DG XI	Environment, Consumer Protection and Nuclear Safety
DG XII	Science, Research and Development Joint Research Centre
DG XIII	Telecommunications, Information Industries and Innovation
DG XIV	Fisheries
DG XV	Financial Institutions and Company Law
DG XVI	Regional Policy
DG XVII	Energy
DG XVIII	Credit and Investments
DG XIX	Budgets
DG XX	Financial Control
DG XXI	Customs Union and Indirect Taxation
DG XXII	Coordination of Structural Instruments

APPENDIX II

QUALIFIED MAJORITY VOTING IN THE COUNCIL OF MINISTERS

As provided in Article 100a of the revised Treaty of Rome, voting on proposals related to the completion of the internal market in the Council of Ministers shall be by qualified majority. This applies in all cases except for proposals regarding:

-- "Fiscal provisions..."

-- Provisions "relating to the free movement of persons..."

-- Provisions "relating to the rights and interests of employed persons."

Such proposals must be passed unanimously by the Council.

Per Article 148 a "qualified majority" means at least 54 out of 76 votes --the votes of member states being weighted according to the following formula:

France	10 votes
Germany	10
Italy	10
United Kingdom	10
Spain	8
Belgium	5
Greece	5
Netherlands	5
Portugal	5
Denmark	3
Ireland	3
Luxembourg	2

Appendix III

The New EC Approach to Harmonization of Standards and Certification

By Patrick W. Cooke and Donald R. Mackay
Office of Standards Code and Information
National Bureau of Standards

Most EC Member States have their own standards which set health, safety and quality requirements for goods sold in their national markets. When those national standards differ, or when product standards, testing and certification procedures are not recognized from country-to-country, technical barriers to trade can result. Producers who wish to market their products in more than one country are often forced to have their products tested and certified several different times. Products must often be modified to meet each country's standards. This is expensive and discourages the marketing of products internationally.

The European Community plans to have, by the end of 1992, harmonized EC-wide standards, and procedures for testing and certification that will allow all products that comply with EC standards to freely circulate within the European Community.

The EC's "New Approach" to Standards

To achieve EC-wide standards, as well as EC-recognized testing and certification procedures, the European Community has adopted a "New Approach" intended to overcome delays inherent in the process of revising thousands of highly technical and differing national standards.

Under the EC's "New Approach," EC Directives promulgated by the European Community are limited to defining "essential requirements" for protection of health, safety, the environment and, in some cases, industrial policy concerns. The task of establishing the technical standards for these essential EC requirements will be taken on by the non-governmental European standardization bodies, such as the Committee for European Standardization (CEN) and the Committee for European Electrotechnical Standardization (CENELEC).

Where national product standards already exist, these regional standards bodies will seek to harmonize them. In the absence of existing standards, the regional standards bodies intend to develop European standards based on international standards developed by such groups as the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Alternatively, individual EC Member States may adopt appropriate standards to satisfy the established health, safety, and environmental requirements.

This process of producing several hundred new "harmonized" European Standards may take years. In the meantime, the European Community's program to achieve the free circulation of goods and services within the EC's internal market is not to be delayed. Once the harmonized, EC-wide "essential requirements" have been met, EC Member States will be obliged to recognize the adequacy of each others' national standards for non-essential characteristics. More importantly, for products where no EC-wide directive exists, Member States will also be obliged to recognize each others' national standards.

U.S. Standardization Concerns

The EC legislation dealing with standardization is likely to have a profound effect on U.S. exports, because harmonized standards may inadvertently be framed so as to hinder the market access of U.S. products. Equally important, products imported from the European Community may be more competitive due to the harmonized standards and the economies European companies will experience as a result.

Currently, U.S. exporters are not given the opportunity to review and comment on proposed EC standards during the initial development phase, i.e., before they are issued for voting within CEN and CENELEC. This prevents U.S. companies and standards organizations from reviewing EC proposals at a time when their comments are likely to be persuasive. Draft European standards issued by CEN and draft specifications issued by the Electronic Components Committee (CECC) of CENELEC "for formal voting" are available from the American National Standards Institute (1430 Broadway, New York, N.Y. 10018; tel. 212-642-4900).

Although the European Community claims that the GATT Standards Code does not oblige signatories to publish proposed EC standards when they are first notified to the EC Member States and their industry associations, the United States Government and industry have sought opportunities to review and comment on some

early draft EC directives before they are "set in concrete."

EC Testing and Certification

Once EC-wide standards are agreed upon, two further technical steps may be required in order to market a product in Europe: 1) product testing to assure conformance to the EC-wide standard; and 2) assurance that the testing has been conducted correctly.

The European Community is now attempting to develop a sectoral approach to the mutual recognition of test data and certification procedures for products destined to circulate within the European Community. The intent is to avoid the wasteful duplication of effort in product approvals.

This initiative will involve the preparation of common conditions and codes of practice for implementation by national testing laboratories and certification bodies in the European Community. It will most probably lead to agreements for reciprocal recognition of national laboratory accreditation programs.

Recent statements by European Community officials indicate realization of an immediate need to establish a harmonized approach to testing and certification. Their sense is that without these additional initiatives, harmonized standards will not guarantee the free circulation of goods throughout the Community. The EC Commission proposes to meet this need by establishing an institution for certification and testing that will deal with both voluntary and mandatory declarations of conformity. This new EC institution would establish criteria leading to the mutual recognition of conformity marks, particularly among EC members and between the EC and EFTA* countries.

The EC Commission's informal proposal for this institution would make it completely independent of any existing regional or national standards body although all those standards bodies would be given a role in establishing EC priorities regarding testing and certification.

Conclusion

The European Community is proceeding aggressively with plans to harmonize differing national standards and testing and certification procedures into a single EC-wide body of uniform standards and regulations. This can offer real advantages to U.S. businesspeople interested in a large market for their goods. A U.S. product that meets the EC requirements in one Member State will then be free to be marketed throughout the European Community.

* The Member States of the European Free Trade Association (EFTA) include Austria, Finland, Iceland, Norway, Sweden and Switzerland.

APPENDIX IV

SOURCES OF FURTHER INFORMATION

The following is a brief guide to further sources of information, including both published sources and offices where contacts may be made for more details on specific issues than is provided in this paper. It is intended to assist business persons who read this report, and is not a comprehensive bibliography.

European Community Official Sources

The major U.S. source of documents and information on EC-92 is the European Commission's office in Washington. The address is:

Delegation of the Commission of the European Communities
2100 M St. NW, Suite 707
Washington, DC 20037
(Tel. 202/862-9500)

The E.C. also maintains offices in New York and San Francisco.

Some basic E.C. documents that have been used in preparing this report are:

Completing the Internal Market: White Paper from the Commission to the European Council (Commission of the European Communities, June 1985).

Completing the Internal Market: The Progress Report Required by Article 8b of the Single European Act (Commission of the European Communities, November 3, 1988)

(DG III in Brussels also compiles periodic updates of all internal market directives that have been adopted. The most recent list is dated October 31, 1988.)

There are two Commission publications summarizing the economic background of the EC-92 program and the results of the full 35-volume E.C. study on the "costs of non-Europe." The briefer policy summary, designed for the business reader, is:

Paolo Cecchini, et al., The European Challenge -- 1992: The Benefits of a Single Market (published for the Commission of the European Communities, 1988; U.S. distributor -- Gower Publishing Co., Brookfield, VT), 125 pp.

A more comprehensive and formal summary of the findings is:

Michael Emerson, et al., The Economics of 1992, issued as European Economy, no. 35 (Commission of the European Communities, March 1988), 222 pp.

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Appendix IV (Cont.)

On technical standards, the basic framework is outlined in:

Florence Nicolas, Common Standards for Enterprises (Commission of the European Communities, 1988), 79 pp.

The full Treaty of Rome, as amended by the Single European Act, is published in:

Treaties Establishing the European Communities, abridged ed. (Office of the Official Publications of the European Communities, 1987), 649 pp.

U.S. Government Official Sources

The International Trade Administration of the Department of Commerce maintains a comprehensive list of all proposed and adopted measures relating to EC-92. This information, with more detailed follow-up information on specific issues, can be obtained from:

Single Internal Market: 1992 Information Service
Office of European Community Affairs
U.S. Department of Commerce -- Room 3036
14th St. and Constitution Ave. NW
Washington, DC 20230
(Tel. 202/377-5276)

U.S. business visitors to Brussels should contact:

U.S. Mission to the European Communities
Blvd. du Regent 40
Brussels, Belgium
(Tel. from U.S. 322/513-3830)

See also the following U.S. government analyses:

Department of State, Bureau of European and Canadian Affairs, The European Community's Program To Complete a Single Market by 1992 (July 1988).

Glennon J. Harrison, The European Community's 1992 Plan: An Overview of the Proposed "Single Market", Congressional Research Service report no. 88-623 E (September 1988)

Office of the U.S. Trade Representative, Completion of the European Community Internal Market: An Initial Assessment of Certain Economic Policy Issues Raised by Aspects of the EC's Program (December 1988).

Appendix IV (Cont.)

Private Sector Sources

The best and most comprehensive study of EC-92, with specific references to effects of major proposals on U.S. economic interests is:

Michael Calingaert, The 1992 Challenge from Europe: Development of the European Community's Internal Market (Washington: National Planning Association, 1988), 148 pp.

The most comprehensive and current information on specific EC-92 developments is provided by the E.C. Committee of the American Chamber of Commerce in Belgium. AmCham publications are available for sale to non-members. A particularly useful and concise guide, that is periodically updated, is:

Business Guide to EC Initiatives, E.C. Committee of the American Chamber of Commerce in Belgium (latest ed. - Autumn 1988), 86 pp.

For copies of this guide and information on other AmCham material, contact:

American Chamber of Commerce in Belgium
E.C. Affairs Office
Ave. des Arts 50, Bte. 5
B-1040 Brussels, Belgium
(Tel. from U.S. 322/513-6892)

STATEMENT OF LIONEL H. OLMER, VICE CHAIR, SUBCOMMITTEE ON EC 1992, U.S. CHAMBER OF COMMERCE

Mr. OLMER. Thank you, Mr. Chairman, and for your warm remarks at the outset. I, too, have a prepared statement which I would like to have introduced for the record. I propose not even to summarize it, but perhaps try to describe for you some of the questions that I attempted to look at and the answers I have given myself.

Chairman GIBBONS. All right. We will put your statement in the record.

Mr. OLMER. To determine whether "EC 1992" is a good deal for the United States, I have asked four questions. Is EC 1992 likely to be a boom or bust for American business generally? What will it take for U.S. companies to be successful? Conversely, what will it take for them to avoid problems? And fourth, how can the U.S. Government help, that is the Congress, the administration and, to an extent, private sector advisory groups?

My conclusion is that EC 1992 is unlikely to be a boom for much, perhaps most, of American business. Why? Well, I have come up with several tentative answers to my own question. There are two principal ones.

First, I have looked at the motivation behind EC 1992, and second, I have looked at the history of EC efforts at unification in the past. First as to the motivation. Plainly put, European governments are running scared. They have not developed modern technologies. They do not have economies of scale. They feel the hot breath of Asia-Pacific and the United States. They are behind in what they perceive to be the markets of the future. They are not competitive in semiconductors, telecommunications or computers, and they fear perhaps above and beyond all else the Japanese and the Korean automobile manufacturers.

In terms of the EC's history of unification, there is one unique example. Agriculture: the motivations that the Community had in creating a common agricultural policy, Mr. Chairman, were to provide food security for the peoples of Europe, price stability and farm income support. To be sure they have accomplished essentially all three objectives, but at enormous cost to the treasuries of the member states, which bothers me less than the enormous cost it has created for much of the American farm community that lost markets both in Europe and markets in third country areas because of subsidized European exports. They have not entirely created fortress Europe in terms of agriculture, but they didn't need to.

I see some aberrations likely to flow from EC 1992 which have interesting prospects—not entirely positive—for the U.S. Government. It is quite likely, in my opinion, that the United States will become the point of the spear for Japanese access to the European marketplace; that is to say, because of Japanese investment in the United States and the probability that Japanese exports from the United States—from subsidiaries of Japanese companies—will be aimed at Europe. We will thus have an economic incentive to assure open markets in Europe for Japan. Now if the product being exported is 50 percent United States content, that is 50 percent

better than zero. It may not be as good as if it were 100 percent United States content. But we will have an economic stake in ensuring the openness of the European market for subsidiaries of foreign corporations in the United States.

In terms of efforts to enhance the security and effectiveness of the COCOM system in controlling technology flows to the East bloc and the Soviet Union, very substantial problems are likely to be created if EC 1992 results in the elimination of controls at the border, as its principal advocates proclaim that it will.

If such controls are in fact eliminated, it will mean an absence of controls on the reexport of products. Thus, the paper trail that has been important in the past to prevent diversion and to catch those who perpetrate diversion, would be eliminated.

Now to my knowledge, the United Kingdom has voiced objection to the total elimination of border controls. They have said that border controls are necessary to wage the war on terrorism, to prevent drugs from entering their own national territory, to place controls on weapons that might seek entry. And, I suspect, that we will find that Mrs. Thatcher's government may be our strongest ally in combating the worst instincts of the European Community in Brussels which may attempt to implement EC 1992 sooner rather than later.

I have asked the question: What might we do in the United States, the Government, private sector, to assure the benefits and to prevent the risks? Obviously, the first thing is to stay informed, to keep on top of what is happening and to recognize that there are some built-in conflicts on the American side.

If you, Mr. Chairman, were to take your committee to Brussels and meet with the American Chamber of Commerce, you would likely find overwhelming support for EC 1992 and relatively little criticism of it. To a large extent that would reflect the actual experiences of the member companies. They are telling you what life is like for them.

Therein lies somewhat of a schism between those American companies already located in Europe or those whose plans to locate in Europe have been accelerated by what they perceive to be happening and those companies who say, "I am an American company. I want to build my product here. I want most, if not all, of the value-added from the United States, and I want to export from here. I do not seek to become an American company also known as a large multinational." That conflict exists today, in my judgment, in relatively small form, but is likely to emerge as a significant issue as time marches on.

I believe that we must make it clear to the European Community member states and to the Commission that the United States seeks nothing more nor less than GATT treatment—adherence to GATT principles and to the openness of markets—as preeminent conditions for our support for EC 1992.

One more point, Mr. Chairman. You recall the days when we discussed the enlargement of the EC by the accession of Spain and Portugal. We maintained in that period—1982 and 1983—that the United States welcomed the enlargement of the EC, wished them well, but warned them it should not come at the expense of the United States.

Major efforts were made to do just that by the imposition of quotas and by the elimination of some market opportunities for our agricultural products in order to make room for very low cost citrus products from Spain and Portugal. In the end it was an argument that was successfully avoided. We avoided at least the worst of it. But we did march to the precipice and I guess having looked at the uninviting vistas before us, we marched back. I believe our agricultural interests were well served and had few, if any, complaints.

EC–92 is a process several orders of magnitude more complicated, placing a far greater premium on knowing what is taking place. In the colloquy that took place here a few moments ago in answer to the question, are we now well structured and positioned, and do we know what we need to know, my answer would be, not hardly.

With that happy tentative conclusion, Mr. Chairman, I welcome any questions.

[The statement of Mr. Olmer follows:]

STATEMENT
on
EC 1992 AND THE REQUIREMENT FOR
U.S. INDUSTRY AND GOVERNMENT PARTNERSHIP
before the
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE
for the
U.S. CHAMBER OF COMMERCE
by
Lionel H. Olmer **
March 20, 1989

The European Community's (EC) pending effort to create a unified market among its twelve member states is, perhaps, today's most important challenge to America's trading interests. No other issue places a greater demand for cooperation between the U.S. government and the private sector: not market access in Japan, not controls on exports to the U.S.S.R., not the rise of Asia's newly industrializing nations to trading prominence, not even Latin American debt. To be sure, these problems remain of considerable concern, and government support on behalf of U.S. business is no small matter. But, in my view, "EC 1992" will subsume or eclipse these issues and should become the catalyst compelling the kind of cooperation between industry and government that many have long complained is lacking from U.S. economic and trade policies.

The first step in constructing a cooperative strategy is to comprehend fully the meaning of EC 1992 and, more specifically, its relevance to the many very different elements of the American business community, including exporters, investors, manufacturers, service providers and component suppliers. I must say that, despite the importance of EC 1992 to the future of the Atlantic alliance -- and an enormous outpouring of print regarding this historic event -- the fact is that there is widespread disagreement as to just what the 1992 effort is or should be. Indeed, if the Prime Minister of one of the member states is to be taken at her word, this Herculean effort to transform the diverse cultures, education and business practices of 323 million people into one homogenous mass under the tutelage of supragovernment authorities in Brussels is more than misguided -- it is badly out of whack with political reality.

For many American companies operating here and abroad, the unification of the 12 member states represents a unique opportunity to develop unparalleled economies of scale in the production of goods and provision of services for what would be the largest trading block in the world. There is little doubt that <u>if</u> EC 1992 remains true to its original purposes -- the creation of an internal market without borders or barriers -- these hopeful expectations could be realized. (In fact, the U.S. Chamber of Commerce's Policy Subcommittee on EC 1992, which Gerry Greenwald, Chairman of Chrysler Motors, chairs and I vice-chair, has prepared a set of principles (Attachment 1) that we believe, if adhered to by the EC as it promulgates individual implementing directives, will help to insure that EC 1992 actually results in an open, free internal market that benefits all parties. The Chamber is communicating these principles to the European Commission.)

And yet outside Europe, at government levels and among certain corporations, apprehensions are rising that the development of a true <u>European</u> common market means just that: nonmembers will need to approach with caution, prepared to pay a price for admission that may reduce the attractiveness and benefit of doing business among the twelve. Are these fears justified?

** Vice Chairman, Subcommittee on EC 1992, U.S. Chamber of Commerce (Partner, Paul, Weiss, Rifkind, Wharton & Garrison, and former Undersecretary of Commerce for International Trade, U.S. Department of Commerce).

It is instructive to examine the EC's prior effort to create a "single market" and the impact of that experience on U.S. trading interests. Through the Common Agricultural Policy or CAP -- the only truly unified policy among all member states -- the EC hoped to achieve food security, price stabilization and farm income support. The three fundamental principles of the CAP are common funding, common pricing and, I would underscore, EC preference. The EC's goals have been essentially achieved, albeit at enormous cost to the treasuries of the member states. But the U.S. has also paid a significant price in terms of lost markets in Europe, as well as in third countries where our agricultural exports have been forced into competition with heavily subsidized EC products. Thus, if we were to draw a lesson from the agricultural unification of Europe, we should indeed be wary of concluding too quickly that EC 1992 will "benefit" the U.S. business community.

It needs to be underscored that far more is at stake than commerce. There is a special bond between Europe and America, linked to the settlement of this country three and a half centuries ago and forged in two world wars. It was no mere act of kindness that led the U.S. to rebuild Europe in 1945. It was a recognition of mutual interests: our shared values and culture. Our investment has been more than repaid during the intervening 45 years, through the maintenance of peace and strengthened commitments to democratic principles.

However, having said that commerce is not the most important element in U.S.-Europe relations, one must hasten to add that business between us is booming, giving new meaning to our "interdependence." In 1986, the most recent year for which reliable and comprehensive statistics are available, total U.S.-EC trade and investment amounted to more than one trillion dollars.

U.S. exports to the EC	$ 52.4 billion
EC exports to the U.S.	$ 79.5 billion
U.S. direct investment in the EC	$100.0 billion
EC direct investment in the U.S.	$125.0 billion
Sales by European divisions of U.S. multinationals	$400.0 billion
Sales by U.S. affiliates of EC companies	$300.0 billion

Our two-way trade in goods and services will exceed $160 billion for the year just ended, repeating a healthy increase in both directions over the preceding 12-month period. Moreover, the American market has become a magnet for European investors: well over 300 U.S. companies were purchased by U.K. buyers alone in a six-month period in 1988 at a value greater than $20 billion.

And to put a fine point on these very large numbers, 2.5 million jobs in Europe are dependent on the activities of U.S. subsidiaries, branches, representative offices and joint ventures in the civil sector of the economy, exclusive of banking. Comparable figures for the U.S. amount to 1.5 million jobs.

Despite this appearance of prosperity, European governments and companies have not felt secure in the face of competition from the U.S. and Japan, particularly in the industries of the future: telecommunications, computers and semiconductors. Indeed, EC policies in recent years have manifested genuine concern that without government intervention, Europe would fall even further behind in technology, product innovation and profits. Thus, the argument goes, Europe would not be able to reverse systemic unemployment and would be condemned to second-class citizenship in the competition for the markets of the 21st century. I believe that this fear of being left behind has been the driving force propelling rapid implementation of plans for EC 1992. It has certainly motivated hefty government subsidies in recent years -- totaling many millions of dollars -- for civilian research and development in high technology sectors.

The key to the creation of a truly common market, comparable to the way business is conducted among the 50 states in our country, is the

elimination of barriers to the movement of capital and labor: not simply tariff walls, but the more elusive, sometimes hidden, obstruction to the free flow of commerce imposed at the border or within the territory of member states. Of the nearly 300 such barriers throughout the EC that were identified in 1985, the EC has approved the elimination of more than 100, leaving nearly two-thirds to move through the legislative reform process by the end of 1992.

Part of the difficulty in decision-making is that European companies have come to rely on protection from competition and want to keep it that way. The elimination of restrictions on outside participation in the construction industry, for example, might result in the introduction of superior German products in France and the loss of market share by French companies. Now, if you are a bureaucrat sitting on the European Commission in Brussels with the big picture spread out before you, it is all well and good to say that competition is what makes for better products at cheaper prices to the benefit of people throughout the EC. It is another matter entirely if you are a French politician seeking reelection.

Indeed, the "down-side" of a single market, in other words, the significance of truly open competition, is slowly being recognized. The rhetoric of the politician is that "everyone will benefit." But business knows better. That there will be at least as many losers as winners among the ranks of European business is reflected in the words of the former chairman of the U.K.'s Imperial Chemicals Industries who said that the next 10 to 15 years are "going to be perfect hell," as well as in those of Carlo de Benedetti who speaks of the "dead and wounded" who will fall in the pursuit of a common market.

My fear is that, as European governments seek to balance political interests among the twelve member states, the legitimate interests of outsiders will be the first to be traded-off. "Fortress Europe" may not be a realistic outcome, but selected protectionism -- defended as temporary measures for import-sensitive sectors (automobiles, computers, semiconductors, telecommunications, textiles and agriculture, to name only the obvious) -- will be defended as necessary.

In Europe as in America, the automobile industry is enormously important to the economy overall. Employment in the manufacturing side of motor vehicle production is only one among many important considerations; this sector has a unique ripple effect by which a dozen or more supplier industries, such as steel, glass, rubber, textiles and, increasingly, electronics, have an equal interest. Thus, the fight between France and the U.K. over whether Nissan autos manufactured in Britain and exported to France would be considered Japanese if they had less than 80% European content had to be resolved by President Mitterand and Prime Minister Thatcher. It should be noted that their solution will not win either of them an Adam Smith award in behalf of free trade. The European content requirement was reduced from 80%, but not by much.

The deeper significance of this negotiation lies in Europe's recognition of how far behind it has fallen in manufacturing efficiency and what it is prepared to do about it. If the Japanese produce automobiles with 30%-40% fewer man hours than does the U.S., they surely do so with 60%-70% greater efficiency than Europe. Mr. Mitterand and Mrs. Thatcher both were seeking to ease the pain of their uncompetitive domestic industries.

The same can be said of telecommunications, computers and semiconductors, which are the industries of greatest concern to European officials and business leaders. So why should the U.S. expect significantly different treatment as 1992 draws near? Indeed, U.S. efforts to assure open markets in Europe post-1992 will be seen as benefiting Japan's U.S.-based subsidiaries, which may also seek to export to the EC. The scenario just played out in the Nissan case may very well be replicated many times over with the U.S. asserting Japan's right of access to European markets.

In one of the most amusing commentaries on the development of EC 1992, the London-based "Voice of Business Leaders" issued a press release entitled "Rushing to Catch the Titanic" in which its director-general, Sir John Hoskyns, is quoted as saying that "Politically appointed European Commissioners and their Brussels bureaucrats cannot be trusted to design the framework for the Internal Market in 1992. We cannot leave it to people who would not recognize a market if it bit them in the leg." He is in good

company: Mrs. Thatcher's reaction to the call from European Commission President Jacques Delors for a "social dimension" to the internal market was no less colorful. The U.K. Prime Minister lashed back with a speech remarkable for its public candor: "We have not successfully rolled back the frontiers of the state in Britain only to see them reimposed at the European level," she said.

The potential problems worthy of the greatest attention by U.S. business and the new Administration in Washington, in my view, are in the areas of information, standards-setting, government procurement and the service sectors outside the scope of the General Agreement on Tariffs and Trade (GATT). (A more detailed listing of U.S. Chamber concerns with current trends in the EC is attached to my statement as Exhibit 2.) With respect to reforms in the areas of public procurement and services, there is disconcerting talk of "reciprocity" as the measure for determining whether "outsiders" shall be granted market access. The EC claims to have acquired its reciprocity vocabulary from the U.S., particularly from the "Omnibus Trade and Competitiveness Act of 1988." In reality, of course, the Act has had no impact on the access of European traders and investors to our market. Yet, the Commission has proposed that non-EC banks wishing to set up or acquire a subsidiary within the EC, to enjoy the benefits of the EC-wide banking license, first undergo a "reciprocity review" to ensure that EC banks receive similar access in the non-EC country. If the Commission has its way, in other words, there will be a new hurdle for all non-EC banks, financial service firms and insurance companies wishing to establish themselves in Europe for the first time.

The major reason that the 1992 plan has been able to advance so rapidly, in my view, is that a deliberate decision was made not to require harmonization of national rules or product standards unless they affect public health or safety. Under the principle of "mutual recognition," a product that meets the standards established by one member state may move freely throughout the EC. For a significant number of products that do affect public health and safety, however, compliance with harmonized standards will be required. For the most part, EC directives governing such products set only essential safety or other performance requirements in the general public interest. Technical details are left to existing European standards-setting organizations. And it is in this realm that non-EC firms most fear discrimination. Virtually excluded from direct particpation in the standards-development process, they are concerned that the technical criteria will favor European companies.

No one doubts the enormous economic potential of EC 1992. But there are dangers in the means by which it is being pursued. If, as Sir John Hoskyns warns, "every aspect of economic, social and business activity comes under the scrutiny of a bureaucracy in Brussels," such that protectionism, discrimination and mercantilism become the operating dynamics of the pursuit of a unified market, then the U.S. and Europe are headed for a major collision. And political and economic interests would fully warrant responsive action to assert our rights.

Within the U.S., there is no substitution for close, comprehensive and persistent consultation between the government and the business community. The message may be varied and sometimes conflicting because certain companies will feel secure in post-1992 Europe based on a long-established presence there, while others, especially small and medium-sized exporters, may have no alternative but to seek U.S. government help to sustain their access. In reconciling these interests, I believe that the role of Congress will be absolutely essential to assuring a fair deal for American business.

My bet is that enlightened leadership will recognize that the future of Europe is bound up in the success of free world commerce and that today's interdependence has come about through market forces -- not from government intervention. If so, we shall avoid the worst. Surely, the efforts of governments should go toward policies that enlarge economic opportunities for all rather than arguing over ways of dividing smaller shares for a protected few.

Chairman GIBBONS. I am going to steal some of Mr. Guarini's questions.

Are you gentlemen satisfied your government is doing all it could do or should do in monitoring this process?

Mr. SKOVHOLT. I don't think you can ever say any entity is doing everything it can do, but I would say it is doing a great deal. I would just comment——

Chairman GIBBONS. Are you satisfied with what it is doing?

Mr. SKOVHOLT. I am generally satisfied to this, at this point, in terms of what they are doing.

Chairman GIBBONS. How about your members, Mr. Olmer?

Mr. OLMER. No, sir.

Chairman GIBBONS. What was that?

Mr. OLMER. I guess I am obligated to follow up with an expanded answer. I think hearts and minds are in the right place, but something else needs to be grabbed. I think that it is terribly important for the U.S. Government to make abundantly clear what our objectives are and what it is that we simply cannot tolerate. The problem to date, I believe, has been in part stimulated by the relatively slow pace of the administration getting off the ground, coupled with the fact that what is taking place in Brussels is not widely known.

My friends in the European Commission enjoy describing the openness of the Commission's activities, the accessibility of Commission officials. That may be true for a multi-billion-dollar multinational that already has offices in Brussels; it is not the same for the many hundreds, if not thousands of American medium-sized corporations who need nurturing if they are going to get around what may well be a mine field for them.

So the process of declaring to the EC the essential ingredients of U.S. policy and, second, somehow reaching out in a more effective way to the large body of American companies that do not otherwise have an avenue into the Community, I believe remains to be done.

Mr. SKOVHOLT. If I could elaborate?

Chairman GIBBONS. Go ahead.

Mr. SKOVHOLT. I have been impressed with the extent to which members of the administration have been attending and are very open to industry groups to meet with them, listen to their concerns, bring them up to date on what the Government is doing. Every meeting I attend with representatives of the Government, they ask the private sector, "What are your concerns?" When the Government moves before the private sector expresses their concerns and their issues and their views, they are subject to criticism.

I would say that I think government has been asking the question, "What do you want," more than the private sector has been providing input and specifics. I think the obligation here is as much on the private sector to provide specifics to the government as to what they should do.

Chairman GIBBONS. Does your association maintain some kind of presence there, lobbying presence, government relations presence?

Mr. SKOVHOLT. The National Association of Manufacturers does not have an officer or any person in Brussels. Obviously, members of NAM have a presence in Brussels. NAM also serves as a member of the U.S. Industry Coordinating Group, which is an orga-

nization of several business groups, including the EC committee, that attempts to coordinate their efforts relating to European issues.

Chairman GIBBONS. How much manpower do you understand is devoted to this from the private sector over there, from our private sector? Do you have any figures on that or any estimate?

Mr. SKOVHOLT. I can't give you a specific, but I think there is considerable time and attention being devoted to it in Brussels as well as in Washington and the United States.

Chairman GIBBONS. I notice every travel brochure I get has got a tour down the Rhine or up the Rhine or around the Rhine. There was a discussion about Europe–92 in it. That appears to be a new tax gimmick for foreign travel. Visit an old castle and find out about Europe–92 or something of that sort.

Mr. Olmer, do you have anything else you want to add?

Mr. OLMER. No, sir.

Chairman GIBBONS. Fine.

Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman.

I have just one question. There seems to be guarded optimism in most of the business community about what can be achieved in EC–92 in the best of all possible worlds. What do you see as the fundamental difference between what the Europeans are attempting to do from, for example what we accomplished after the failure of the Annapolis Convention by drafting a constitution to eliminate artificial barriers amongst our original 13 States on the one hand, and second, the recent free trade agreement we negotiated with Canada?

Mr. OLMER. I don't believe that EC–92 can be compared in any way, shape, or form to the American experience. I do not believe the "social dimension" will succeed for several generations to come. What I do hope for is the elimination of tariff and nontariff barriers.

What is often overlooked by bureaucrats in Brussels is that competition means that someone is going to lose. Their rhetoric has been that there is enough for everyone to go around. Well, if that is the case, why haven't they succeeded so far?

The fact of the matter is that neither economies of scale have developed nor has there been a willingness to cut loose uncompetitive industries that have existed for years only with the benefit of government subsidies. When those subsidies are eliminated and when products from neighboring EC states are admitted and drive some small- and medium-sized companies out of business, we will see the degree to which political courage matches the economic rhetoric.

Mr. CRANE. If you will yield just a second on that point, first, protectionism has a price. It is a predacious price to the consumer, and ultimately to businesses that have enjoyed that kind of parochialism.

Second, is there not a fear—the point you have raised here—that once you have open markets, for example, some small, medium-sized business may go belly up because of competition? Is that not a fair issue in our Canadian-United States Free Trade Agreement?

Mr. OLMER. That is one of the reasons that I believe difficulties were confronted in negotiating the United States-Canada Free Trade Agreement.

Mr. CRANE. Do you think it will cause a disintegration potentially, down the line of the United States-Canadian Free Trade Agreement?

Mr. OLMER. I don't believe so. I believe there are stronger commitments in Canada and in the United States to an essentially free trade policy that make your position highly unlikely. But I think from time to time we will see "cut-outs" for particularly impacted segments of our economy and their economy in which someone will carve out a "transitional rule," as they call it in Europe, to accommodate an economically impacted sector of the economy which arguably needs some assistance.

Mr. CRANE. Because of some of the social and cultural differences in Europe that do not necessarily exist, at least to the same extent, between us and our Canadian neighbors, I will concede that there are potential problems there.

Do you think they are of such a magnitude that they make it impossible to envision a time when we might negotiate a United States-Japan Free Trade Agreement?

Mr. OLMER. I think that a United States-Japan Free Trade Agreement is an oxymoron.

Mr. CRANE. How about a United States-Hong Kong or Singapore Free Trade Agreement?

Mr. OLMER. I can't imagine why we would bother.

Mr. CRANE. It would involve only concessions on our side because they practice free trade.

Mr. OLMER. I guess they do. Although it was only recently that we managed to get the Government of Singapore to enact legislation aimed at protecting intellectual property rights. We still have some countries with their ineffective implementation of their laws, laws which they enacted only because of U.S. pressure.

I think that a United States-Japan negotiation intended ultimately to lead to a free trade agreement is probably a good idea. The process of negotiating might open up, might expose for microscopic analysis some areas that, believe it or not, are still not well understood on both sides, and it might be helpful in opening up their market, in making our officials and legislators more alert to what the facts are and not just what constituents tell them. That would be helpful.

Mr. CRANE. If, say, the social and cultural differences amongst European trading partners are such that they might superficially reach an agreement and then encounter troubles down the road, does that not suggest that concessions made to the U.S. officials doing business with the European Community may be in similar jeopardy? They must have more in common collectively amongst themselves than they have with the United States.

Mr. OLMER. I am not sure I would concede that, sir, with respect to a number of the member states of the European Community. I think they have probably more in common with parts of the United States than they do with the rest of Europe collectively.

That is why I think that the "social dimension," as the French have chosen to call it, is in for big trouble. If they be persuaded

that their economic future is at root affected directly and almost completely by the thoroughness with which they implement 92, then I think they have got a chance. But they will be, they must be willing to pay a significant economic price in pockets of their economies that may detrimentally affect the Italians in one area, the Germans in another, and so on.

Mr. CRANE. Does that essentially reflect your views in the main?

Mr. SKOVHOLT. I do not agree totally with what Mr. Olmer said. Let me go back to the question about the comparison with the United States-Canada treatment. There is some similarity even though Europe has vastly more complex barriers than we have dealt with between the United States and Canada. As we look at this, we need to keep in mind that as Europe goes about this effort, that it may serve to benefit not only in terms of European companies that are producers, but also European companies and individuals as consumers, and creating a larger market would be beneficial to Europe in terms of getting more efficient product at a better price.

That is not just for individuals, but also for European companies who benefit as a consumer.

Mr. CRANE. I have my fingers crossed and I harbor some of the reservations Mr. Olmer touched upon. For all of that—pursuing this aggressively while maintaining a due regard and concern for how our exporters might be treated in that market, is totally legitimate.

Let's hope for the best. I thank you for your testimony.

Mr. CRANE. I think the fact there are so many industry associations that have task forces and so many Members of the Congress are watching it and so many agencies of the Government are watching that we are all somewhat wary—looking at it optimistically, but also realistically.

Mr. OLMER. In the area of automotive products, in my prepared statement, I describe the recent public issue between Mr. Mitterrand and Mrs. Thatcher over the Nissan factory that was being established in the United Kingdom, and the resistance to import by the French which they alleged were Japanese and not British. The argument was over how much European content was necessary in order to get past French resistance.

I don't know that they finally concluded the negotiation but I believe Mr. Mitterrand has come down from his demands that it be 80 percent EC content.

My comment is that if the Japanese produce automobiles currently with 30 to 40 percent fewer man hours than does the United States, they surely do so with 60 to 70 percent greater efficiency than Europe.

I think Mitterrand and Thatcher are both well aware of this and are both seeking to ease the pain of their uncompetitive industries. I think that will be repeated not only in the automobile, but in the dozens of supplier industries associated with the production of a motor vehicle.

Mr. CRANE. Thank you.

Chairman GIBBONS. Mr. Guarini.

Mr. GUARINI. Thank you. Mr. Skovholt, Honeywell does, what, two-thirds of its business in Europe?

Mr. SKOVHOLT. Two-thirds of our international sales are done in Europe.

Mr. GUARINI. Being highly competitive and intense as it is, and it often gives no quarter when they are in this fierce competition between businesses, Honeywell is already on base in Europe, already has established its network of distribution, its friends, its plants, et cetera. Isn't there a tendency to feel that once you are inside the castle you pull up the drawbridge? Wouldn't it be a normal tendency for those companies that are well positioned to say we have the biggest market in the world, more GNP than the United States. Why should we let anybody else in? We are not magnanimous in business, we are competitive. Where is it that your business would be in the best interest of your average competitor in the United States?

Mr. SKOVHOLT. We have major production and manufacturing facilities in Europe, but we are also——

Mr. GUARINI. That's right. Wouldn't you keep a market more to yourself if you were discussing intellectually what is in the best interest of your business connections to say, look, let's grandfather us in, let's talk about reciprocity as I understand it, let's not tear down these walls, we are inside the fortress.

How can you represent fairly the people that would like to get on base and are not over there yet?

Mr. SKOVHOLT. While we are a major investor and producer in Europe, we also depend very heavily on exports from it to Honeywell in Europe.

Using the example of the Airbus, Honeywell is a major supplier of avionics controls to the Airbus, and those products are made only in the United States.

We are not only an investor in producing in Europe, but we have significant markets where we are an exporter.

Mr. GUARINI. Isn't the Airbus the one that creates the big problem that we have within our own industry?

Mr. SKOVHOLT. They are in competition with Boeing and McDonnell-Douglas.

Mr. GUARINI. Isn't that one of the real problems we have in this country and you sit there and say you are going to sit there and testify as to what is in the best interests of the United States? It seems to be contrary.

Mr. SKOVHOLT. Perhaps. If the desire is that there should not be an Airbus that is another matter.

Mr. GUARINI. I didn't mention it, you did.

Mr. SKOVHOLT. I realize that. Ours is a U.S. export to Europe. I use it as an example of how our company is not only interested in the European market as an investor but also as an exporter.

Mr. GUARINI. In Europe it is often thought big is better and perhaps over here we don't always have that same philosophy. Acquisitions and large scale mergers will be very important on the agenda in Europe. Where do you come down on that point?

Mr. SKOVHOLT. The issue of competition policy is one of the issues that our task force identified as being a major issue to look at. I also made the point that the success or failure of a company in dealing with EC–82 is how it looks at the European single market from a business standpoint.

That may mean that a company should acquire, engage in joint ventures and should utilize the opportunity to merge or acquire companies in Europe. So those are very real ways in which a company can adapt and deal with the single market.

Mr. GUARINI. Would NAM be inclined to press hard for the U.S. philosophy of the antitrust in the Common Market when its rules are being structured?

Mr. SKOVHOLT. I believe so. That is an issue our task force has identified and we will be looking at it and presenting policy to the U.S. Government.

Mr. GUARINI. The recent change in EC origin where now they are talking about diffusion where it was not enough just to have assembly and testing plants but now they want to go beyond that so that you have to have additional requirements, laboratories and things of that sort, are you all for that and doesn't that restrict American companies getting into the Common Market, making it a little more difficult for them?

Mr. SKOVHOLT. Our interest is making sure the areas of certification and standards are open to U.S. companies. That is an interest of particular interests to our task force. We have established a specific subcommittee. It is chaired by a representative of NEMA, a sectorial organization. Our objective is to be sure U.S. companies have full access to testing, certification and the standards process utilized by Europe.

Mr. GUARINI. EC origin has been expanded to a tougher definition. Is NAM fighting this or are you satisfied with it?

Mr. SKOVHOLT. I can't comment specifically on that. We have identified that as an issue. It is an issue that we are looking at, and we will be presenting thoughts to you on.

Mr. GUARINI. Let's try the specific percentage of content being European origin. Are you interested in that definition?

Mr. SKOVHOLT. Yes, of course.

Mr. GUARINI. Do you think it would be more helpful in telecommunications or energy and transportation areas to have a lesser percentage when we are talking about government procurement?

Mr. SKOVHOLT. I cannot comment specifically on what NAM is going to say on that, Mr. Guarini.

Mr. GUARINI. How about Honeywell? See, being entrenched in Europe is a lot different from a lot of small businesses in the United States are. When you say you are satisfied with what is happening, I am trying to point out to you that there are a lot of areas where we have to represent those silent businesses, those unaware people, millions of businesses in the United States who will want to get to global trading and will not be able to do it if the drawbridge is pulled up by the people already there.

Mr. SKOVHOLT. Absolutely. I agree totally with that. I met with representatives of the EC Committee of the American Chamber in Europe last year. I told them that companies that are investors in Europe have to be equally concerned about the concerns of U.S. exporters, how the U.S. Government responds is not going to be based with how investors in Europe are dealt with. They are going to respond to the concerns of exporters.

It is of interest to them to be equally concerned about the needs of exporters. It is an issue that is a high concern for the NAM task force. I agree with you.

Mr. GUARINI. I don't mean to demonstrate any hostility toward you but I just want to make a point. It is easy to say everything is going fine, and we are listening to what is happening in Brussels. But I think we can have some preventive measures and not as we typically do, address the problem after a crisis is created.

If we don't take some preventive medicine, we can end up in deep trouble a few years from now.

Mr. Olmer, can you tell us what more you think our Government can do in regard to these structures it has in addressing the problem and what is left to be done? We have only 2 or 3 years before a new global world order is set in place.

Mr. OLMER. I don't think we have 2 or 3 years. I believe that the concerns implicit in a couple of your questions a few minutes ago are with us today, and are only going to get worse unless we do something about them.

You made a comment about "diffusion," and the panel that follows us will discuss that, but on the domestic content issue, there is pretty clear evidence that Airbus has been using a smaller and smaller percentage of U.S. components.

Now, for a while, the Airbus consortium defended its policy on the grounds they were simply frightened that the United States would reimpose national security export controls that they did not want to live with.

I must make a declaration. I represent an American commercial aircraft manufacturing company, but of course what I am telling you is utterly objective and scientific fact, that there has been a lessening American content and I think the administration should say that is not to be tolerated.

We have in our country today many great European companies. I said "great" in the sense of size and in terms of competence.

We welcome them here and they do great business here and it benefits the American economy. They have as much at stake in our economy as we do in theirs, and that dimension I don't believe has taken hold. I don't believe European businessmen are fully cognizant of the degree to which we have become interdependent. We should get them to be our lobbyists to their governments. We should have some German, Italian, and French companies stand up and say "no" to that diffusion regulation or "no" to that domestic content provision. I have not seen evidence of that nor have I yet seen evidence that we on our side have instructed our representatives in Europe to do jut that, and I encourage that and hope that it will take place in the very near future.

Certainly, the U.S. Chamber will make an effort to get that message across. We have worked mightily to issue a one-page statement of issues.

When I said "worked mightily," it was once 30 pages, and not comprehensible. Now I hope it can be understood in short order.

Mr. GUARINI. If you were king, and you are not now, what should the United States do in a nutshell?

Mr. OLMER. I am sorry you had to remind me of that, Mr. Guarini.

We don't yet have an understanding of the European Community as to the degree to which they will share with us what their intentions are.

There are disagreements. In part they stem from misinterpretations of some remarks made by administration officials, in terms of what it is we have a right to expect. They at least have told me, some have, that they reject out of hand the "demands" from the U.S. side that we have a "seat at the table." They say that is like their asking for a seat at the Cabinet table in the administration.

I don't believe that is what was intended, and I don't believe that is what Secretary Mosbacher intended. What is essential is that we know the regulations that are being contemplated before they are issued. I answered my European colleagues in this way: If I were to look at the docket of the Federal Communications Commission or half a dozen other regulatory agencies in the United States, I would find foreigners represented as much as American companies. We welcome the views of outsiders possibly in the recognition that in an economic sense they are really not outsiders.

We don't want to be participating in the policy the Europeans seek to achieve, but at least in being solicited for a view on what impact it will have on the interdependent relationship we have come to.

Mr. GUARINI. As I understand it, they feel that we are interfering with their legislative process and as a result we have pulled back and become a little gunshy. If that is so and we have failed to assert ourselves as we should as a great nation, then I think it is a pitiful result.

Mr. OLMER. I am not familiar with the specifics of the particular example, but I do not feel that we yet are asserting ourselves as broadly and crisply as we should, directed or aimed carefully at particular segments of regulations they are drafting.

I was given an example by a U.S. official who said that the safety standards on forklift trucks was a 60-page document. If that is true, what will it be for digital telecommunications switches, when they decide to put those out? I think our companies should come forward and help aim the guns of the administration and the people in the administration have to be prepared to go to Europe and make those assertions with force and effect.

Mr. GUARINI. Thank you for your helpfulness.

Chairman GIBBONS. I think all of you have visited the U.S. mission in Brussels.

Without getting into specific personalities, is the mission large enough, comprehensive enough, adequately staffed to do the job that is ahead of us?

Mr. OLMER. I am a personal friend and admirer of Ambassador-designate Tom Niles. I am so persuaded by his competence and ability to size up situations, I would wait until he got in there. I worked with him at the Department of State when I was in the Commerce Department. I have no doubt that he will lay out the requirements of satisfactorily doing his job.

Once he has done it, will the U.S. Department of State increase his total complement? That is another matter, and that is where your assistance might be helpful.

Mr. SKOVHOLT. Mr. Chairman, I think it is good news that a person like Mr. Niles has been appointed Ambassador. It brings professionalism to the mission. I agree we should wait to get his views in terms of staffing. If you look at Europe in terms of movement of policy to the European Community, it seems to me that the mission is going to inevitably need to be beefed up and strengthened in a number of ways.

Mr. OLMER. I might say office space in Brussels is very hard to come by according to some Japanese friends who were of a mind to rent office space.

Chairman GIBBONS. Thank you very much. I have visited the current mission over there on a number of occasions. Ambassador Niles will be a vigorous person and well dedicated to doing the job. I am not able to gauge his ability to get the job done because in brief visits, I don't have a chance to look in great detail. That is why we have to rely on the private sector to tell us what is going on.

Mr. OLMER. On some issues, the role of the Ambassador will be limited to reporting, evaluating, and recommending. The issues are so large that they will be solved, if at all, only at the highest levels of government.

Chairman GIBBONS. I understand that. But do you think that the office as it is currently staffed is large enough and sensitive enough to do the job?

Mr. OLMER. I believe it is sensitive enough. I am frankly no longer current on the size of the office and how the people are organized. So I must beg off responding.

Chairman GIBBONS. Is there an active liaison between the private sector and the mission over there?

Mr. SKOVHOLT. My experience is whenever the private sector wishes to contact the mission or wishes to communicate with them, that the mission is extremely responsive and maintains a very good dialog particularly with the U.S. companies that have a presence in Brussels. As I said earlier, the quality of staff is very good. Whether the size of the staff as we move into completing the single market is sufficient, that is an issue that needs to be examined.

Chairman GIBBONS. I get the impression from my visits that the number of people and the size of the quarters are about the same as they were 20 years ago. Am I right?

Mr. OLMER. I think that is essentially correct, Mr. Chairman.

Mr. SKOVHOLT. I don't go back 20 years.

Chairman GIBBONS. I have not seen any great growth in the size of the staff. It was first totally 6 and now I believe it is 12. The European Community was 150 million people, now it is 320 million people. I realize you cannot judge everything by gross numbers, but that staff has been in the same quarters for 20 years.

While faces have changed, I am not sure the scope of the staff has changed that much.

Mr. OLMER. With the advent of telecommunications maybe they are getting a lot of help from the Department of Commerce and State and USTR.

Chairman GIBBONS. Aren't they in that mission often together?

Mr. OLMER. Yes, sir.

Chairman GIBBONS. The Ambassador to EC heads that. It is a relatively small, cramped quarters.

Mr. OLMER. It is. One thing perhaps should be said about your question about sensitivity. There is a delicate balance between maintaining a cordial relationship between the people that you are accredited to and being willing to get in a fight and perhaps get a little bloodied. The issues in 1992 are very likely to be more than merely contentious.

They are likely to lead to very serious debate and more than that between the United States and Europe. It seems to me one question for oversight is to observe the degree to which our accredited representatives are willing to get in a fight and get bloodied on behalf of American interests.

Chairman GIBBONS. We are going to try to get the Ambassador back from over there, the one being replaced as well as the new one, to get an appraisal as to whether they are geared up, whether their budget is large enough, what kind of liaison are they carrying on with the American private sector over there. So if the staff will make a note of that, maybe we can bring him over at some future time.

Thank you very much.

We will hear our last panel now, the American Electronics Association, Mr. Pomeroy, Mr. Maibach from the semiconductor industry, and Mr. Bates from the Motor and Equipment Manufacturers Association.

Mr. Pomeroy, why don't you start off?

STATEMENT OF JOHN E. POMEROY, MEMBER, INTERNATIONAL STEERING COMMITTEE, AMERICAN ELECTRONICS ASSOCIATION, AND PRESIDENT AND CHIEF EXECUTIVE OFFICER, DOVER TECHNOLOGIES

Mr. POMEROY. Mr. Chairman and members of the committee, my name is John Pomeroy and I am president and chief executive officer of Dover Technologies headquartered in Binghamton, NY. My company manufactures electronics production equipment for automatic printed circuit assembly and microwave components including filters, capacitors, subsystems, antennas and frequency sources. Of our $428 million sales last year, $128 million were made in Europe. Dover Technologies also manufactures abroad and has two manufacturing sites in Europe. Our sites in Holland and in England produced $28 million worth of our European sales. Hence, my company both manufactures in and exports to Europe. Incidentally, Mr. Stoler who appeared here for the USTR appeared at our last meeting.

AEA's member companies span the spectrum of size and produce type. Members range from the newest start-up companies to America's largest corporations. The companies manufacture products including computers and peripherals, computer software, semiconductors and other components, telecommunications equipment, scientific and medical instruments, aerospace and military equipment, and manufacturing machinery for these and other products.

I appreciate this opportunity to testify on the subject of the European Community internal market consolidation. This subject is of

critical interest to the U.S. electronics industry which last year exported close to $20 billion worth of product to the European Community. As a unit, the EC is our industry's largest export market. The surplus which our industry currently enjoys with Europe, moreover, is all the more important in light of our growing deficit with Japan.

Electronics is America's largest manufacturing industry. Over 2.6 million American workers are directly employed in electronics manufacturing. This is three times the size of the auto industry, and nine times the size of the steel industry. In addition, the electronics industry is entrepreneurial in nature. Over half of AEA's 3,500 member companies are small businesses employing fewer than 200 people.

Mr. Chairman, the U.S. electronics industry requires open markets and free trade for its prosperity. To the extent that the EC's efforts to create a single market in Europe will liberalize global trade we believe it will have a positive effect on world trade and our own industry. By replacing its differing individual national rules and regulations with harmonized laws, the EC will increase the size and dynamism of its own electronics market and by extension the global market. Companies doing business with any of the member states will only have to comply with 1 EC law, as opposed to 12 conflicting national laws.

However, adjustments will have to be made in order to comply with new laws and regulations. For companies currently conducting business in Europe, 1992 may require some restructuring of business. Moreover, in the process of integrating their own markets, EC member states may differentiate between producers within the EC and producers outside.

Accordingly, AEA activities with regard to EC 1992 seek to first, help companies get educated on how to comply with newly harmonized regulations and second, insure that U.S. electronics companies are not discriminated against by new regulations.

AEA's first step in helping U.S. electronics companies prepare for this new environment has been to find out exactly what the new harmonized regulations are, and how to comply with them. Breaking the 1992 program down into areas of greatest concern to the electronics industry, AEA recently published a report on changes being considered in standards, government procurement, and intellectual property. This report, entitled the "AEA Guide to the Single European Market" also includes an analysis on government-sponsored research and development programs which have been undertaken to increase the competitive posture of European industry.

This report which has been made available to AEA members, also encourages companies to identify actions being taken by the Commission which may be discriminatory to their products. Not surprisingly, several concerns have already been identified by AEA member companies in these important areas.

In the standards area, for example, the EC is attempting to eliminate technical barriers between member states by harmonizing standards and certification schemes. The task of establishing technical specifications for products is being handled by several European standardization bodies. These include the European Com-

mittee for Standardization [CEN], the European Committee for Electrotechnical Standardization [CENELECT], and the European Telecommunications Standards Institute [ETSI]. Participation in these groups, however, is limited to European-based companies. In contrast, U.S. standards-making activities are both voluntary and open to participation by all interested parties, no matter what country they are based or manufacture in.

The participation of U.S. companies in these activities is essential if they are to have any advanced knowledge of standards being considered or have an opportunity to comment on them before they are published in final form. Denying U.S. companies the ability to participate in standards making both eliminates their significant technological contribution to the process and increases the chance that this area could result in trade barriers.

In the certification area, the EC's objective in setting up directives for the mutual recognition of test data and certification procedures is to avoid wasteful duplication of efforts in product approvals. The AEA completely supports this objective, but it is not yet clear that U.S. test data would also be recognized under this scheme.

We support the EC's objective of establishing EC wide standards, but urge that such standards be developed in a transparent process which allows for foreign participation. In addition, AEA strongly supports the EC's aim of eliminating wasteful duplication of product approvals, and recommends that criteria being established for testing and certification also be extended to U.S. labs.

Another area of growing concern has to do with domestic content requirements and rules of origin. The Europeans are beginning to utilize domestic content requirements in combination with rules of origin to encourage the sourcing of certain products from European suppliers. Such rules may discriminate against outsiders and hurt exports of U.S. electronics products.

Recently, for example, the EC adopted a new rule for semiconductors which confers European origin only on those chips which have undergone most of the value-added on European soil. Previously, final assembly and testing in Europe was sufficient for conferring EC origin. Under the new rule, the process of "diffusion," the most sophisticated and costly part of chip making, will be the criteria for determining country of origin.

Because of content rules for certain products subject to antidumping orders and quantitative restrictions. U.S. semiconductors which do not meet the new origin test are being "designed out" of European products in favor of those produced by European suppliers. The same is true of semiconductors which are being used in the manufacture of products for sale to member state governments, since procurement rules also incorporate domestic content requirements.

This will have a negative impact on the competitive position of U.S. semiconductor companies and put pressure on them to invest in new and costly production facilities in the EC in order to gain European origin status. U.S. manufacturers assembling in Europe, but carrying out diffusion at home will now face a 14 percent duty in both EC and EFTA countries. In addition, U.S. computer companies manufacturing in Europe but using U.S. origin semiconductors

will either have to absorb the costs associated with the higher duty or raise prices on their final products.

AEA urges that such product-specific rules be resisted in favor of an internationally agreed upon standard for determining origin.

In addition to these concerns, AEA is watching closely to see how EC wide regulations shape up in the telecommunications sector. As you well know, this sector has been heavily regulated at the member state level in the past. Efforts to establish an open EC-wide telecommunications market are of great interest not only to telecommunications equipment suppliers in our membership, but to all information-based companies.

Because of the reluctance of national telecommunications regulatory agencies to give up control over this important area, it is likely that liberalization in this area will lag behind that of other sectors. Yet it is precisely in this area where the most can be gained by creating a single competitive market in Europe. The U.S. Government should continue its efforts to encourage liberalization and open access for telecommunications products and services in Europe.

AEA has been a consistent and vocal advocate of U.S. Government efforts to establish stronger international trading rules through the Uruguay Round GATT negotiations. To the extent that the Europeans are successful in establishing EC-wide trade regulations while remaining open to outside trading interests, 1992 should have a positive effect on the multilateral negotiations. In the area of government procurement, for example, new rules established at the EC level will allow them to negotiate within the GATT. The U.S. objective in this negotiation should be to open up more areas of EC-wide government procurement for U.S. producers to bid on.

Thus, AEA supports the rapid development of rules in the EC which will benefit the larger GATT discussions aimed at opening up more areas to competitive trade. The EC should develop such rules in a way consistent with current GATT rules. In those areas where the GATT is trying to establish rules for the first time, the EC should pursue a liberal approach which will promote positive action in the Uruguay Round.

To sum up, Mr. Chairman, American industry has a large stake in the outcome of this process and needs to stay informed on its direction if not participate directly. In that spirit, I will be participating in a delegation of senior executives from AEA member companies which will visit Brussels later this month. The delegation will meet with key officials of both the U.S. Government as well as the Commission to discuss issues affecting the electronics industry. The purpose of the visit is to establish contacts in Brussels and voice both support for the open market objective as well as concerns associated with discriminatory actions.

In a similar fashion, the AEA would like to continue to keep this committee informed of its findings as the process of integration continues in Europe.

I appreciate your attention and am happy to answer any questions which you may have.

Chairman GIBBONS. Thank you.

Mr. Maibach.

STATEMENT OF MICHAEL C. MAIBACH, DIRECTOR OF GOVERNMENT AFFAIRS, INTEL CORP., REPRESENTING THE SEMICONDUCTOR INDUSTRY ASSOCIATION

Mr. MAIBACH. Good afternoon, Mr. Chairman.

I am Michael Maibach, director of government affairs for Intel Corp. I will submit my statement for the record.

Today I represent SIA, which is composed of more than 90 percent of U.S.-based semiconductor manufacturers.

At the outset, EC-92's ideal is positive and contains important efficiencies. At issue is whether EC-92 will cause the export of U.S. jobs rather than the export of U.S. products.

Why do we care? Because Europe is an $8 billion-plus semiconductor market, second to Japan—$18.5 billion—and the United States—$13.5 billion, and because Europe is by far our largest export market—$3.5 billion, which compares with United States semiconductor sales in Japan—$1.9 billion.

The United States has a $1 billion semiconductor trade surplus with the European Community. Intel believes the EC may become the fastest growing semiconductor market because of EC-92 rationalization and a relatively low computer to per capita population.

We must keep Europe open to U.S. goods. Clearly America has a strong interest in maintaining free access to the European Community.

SIA member company marketplace reports reflect what our experience has been to date. The following have occurred within the last 6 months.

Item: Two U.S. chip firms each lost six-figure contracts connected with Japanese printer dumping cases.

Item: Two U.S. computer companies with EC plants asked a U.S. microprocessor supplier to build in EC.

Item: Two other U.S. computer firms asked a U.S. semiconductor supplier to make presentations on future EC investment plans.

Item: U.S. semiconductor firms were asked by EC customers to begin listing on sales offers where their semiconductors are diffused.

Item: A U.S. chipmaker received a letter from an EC customer suggesting they "Europeanize" their semiconductors "in light of the changing environment" by licensing.

Item: A U.S. firm was designed out of a U.S. computer company's EC product due to Government procurement requirements of 100 percent.

Item: A U.S. automaker's European manager advised a U.S. chip firm that by 1992 they want to meet the "80 percent domestic content" level throughout the Community.

Item: A U.S. computer company refuses to design in new logic chips that do not have "a European source" due to 1992.

A case study providing specifics on the first item will give you an idea of what is occurring, especially in light of the recent rule of origin change. A dot matrix printer case study—I will refer you to the charts attached to my statement. If you will follow along, I will try to be brief.

This is a particular case where a Japanese printer company was found guilty of dumping in Japan. They decided to assemble those

printers in Scotland and England. You can see that the chips put on the printed circuit board in Scotland from United States, European, and Japanese sources. The boards are shipped to where the printer is assembled in England.

On the second sheet I would like to bring to your attention two content rules that come into play. The first is the Community safeguard rule, which says if the product contains 45 percent EC content, it is considered as made in Europe.

The second—and this is critical to the first—is the screwdriver assembly rule, which says that dumping duties can be avoided if no more than 60-percent of the product's content is made in Japan.

The Japanese looked at this situation and saw 20 percent of the content of the printer was in one board, and there happened to be two circuit boards, that is 40 percent of the content.

If I can then refer you to the third sheet, entitled "U.S. Case Study," it says "Japanese Board." In this hypothetical breakdown of the chips, we posit that there are 100 chips on the board for the sake of the fraction. There are 55 Japanese chips, 15 European and 30 from the United States. This would be a Japanese board because 55 percent of the content is made in Japan. But remember the community safeguard rule of 45 percent; if one can somehow find another 30 chips to add to the European 15 to make 45, then you would have a "European" printed circuit board.

You don't have to be a rocket scientist if you are a Japanese businessman to decide to take the 30 chips from the American supplier, rather than your own company or the Japanese company down the street. This has occurred to at least two U.S. companies which have reported to the Government.

When you move those chips from the U.S. supplier, you have 45, or EC origin. The two printed circuit boards then are made in Europe because they have 45 percent European content. Added together, they are 40 percent of the matrix printer and therefore this printer now meets the screwdriver assembly rule.

You will notice that the Japanese did not lose any of the 55 chips or the 60-percent Japanese components not involved with the circuit board.

The end of the story, then, is the Japanese did not lose any part of the sale; the Americans did. This is why we are concerned about some of the trade activity in Europe.

While each of these regulations may be defensible individually, when applied together they apply this message: The European Community intends to use its trade laws not only to stop unfair trade practices, but also tk force domestic manufacturing that otherwise would occur ehsewhere.

In addition, domestic cnntent rules have impact on, for example, autos, a large seiicnnductor market. It is 10 percent of the total seiiconductor demand in Europe, and U.S. firms are way ahead in that market.

Finally, let us take a look at the matter of seiiconductor tariffs in the European Community todax, 41 years after the GATT was signed. While there are no seiiconductor tariffs in the United States, Canada, and Japan, Europe has a 14-percent semiconductor tariff, protecting it from competitors. A 14-percent tariff—we believe it is reasonable to ask why.

In conclusion, this Nation and its companies have many strong and important ties to Europe and we all want to strengthen them. We wish to see "EC-92" become an economic success story, a testament to the best free trade principles. We would be concerned, however, if instead Europe emulated the Japanese model of one-way trade, albeit through EC regulations and tariffs, rather than culture and anti-competitive industrial structures.

Thank you.

[The statement and attachment of Mr. Maibach follow:]

STATEMENT OF

THE U.S. SEMICONDUCTOR INDUSTRY ASSOCIATION (SIA)

The Semiconductor Industry Association (SIA) is pleased to have the opportunity to testify at this hearing on "Europe 1992." My name is Michael Maibach, and I am the Director of Government Affairs for Intel Corporation.

The Semiconductor Industry Association, which represents U.S.-based semiconductor manufacturers, was created in 1977 to coordinate industry energies in solving international trade problems. In particular, SIA has focused on finding solutions to problems involving unfair trade practices and unequal access for American semiconductor products in world markets. SIA's main concern continues to be public policy issues that affect the industry's ability to remain competitive internationally. However, the range of SIA activities has expanded to include a broad spectrum of industry topics, such as occupational health, safety, and environment; industry statistics; public communications; and industry-oriented publications. The industry's interest in fostering competitiveness through cooperative ventures has led to the creation of a basic research consortium, the Semiconductor Research Corporation (SRC), and the formation of SEMATECH. SIA's most recent initiative is an exploration of ways to stimulate reentry by U.S. manufacturers into production of dynamic random access memory semiconductors (DRAMs), a critical sector in which the U.S. industry has been decimated, due in large part to unfair Japanese trade practices.

SIA member firms represent over 90 percent of the U.S. industry. A list of member companies is attached.

In response to the Subcommittee's request, my testimony will address some of SIA's concerns with regard to the 1992 "single market" effort in Europe. I would emphasize that this is a very preliminary assessment; we don't know enough yet about the policy directions that Europe appears to be taking to reach any firm conclusions as to what the ultimate effects of the 1992 effort will be on U.S. companies operating in Europe. However, there have been a number of recent actions taken in Europe which have had negative repercussions for U.S. companies, and these events have caused us to take a closer look at what is happening in Europe and to be concerned about some of the signals that the Community appears to be sending in the electronics area.

Let me begin by pointing out that the European market is a very important market for U.S. semiconductor and electronics producers. Europe as a whole is one of the world's largest markets for semiconductors. Total semiconductor consumption in Europe in 1988 amounted to $8.253 billion. U.S.-based semiconductor producers were the largest suppliers to the European market, with sales of $3.697 billion (44.8% of the total European market). This compares with U.S. sales in 1988 of only $1.934 billion in the Japan market, which is now the world's largest semiconductor market (Japan's consumption of semiconductors was $18.108 billion in 1988, of which the U.S. share was 10.68%). Clearly, the United States industry has a strong interest in maintaining access to the European market, our largest export market, and we would be very concerned if we thought that the Community was trying to emulate the Japanese "closed market" model.

As you are aware, the much-heralded 1992 "single market" effort is an enormous legislative undertaking which is being implemented through increased centralization of authority in the hands of the EC Commission. Almost 300 directives will be considered as part of the EC effort to create a unified internal market of 320 million consumers. To date, I

understand that the Commission has enacted some 100 directives. Among the objectives of the 1992 effort are to improve the competitiveness of EC firms, particularly in strategic sectors such as electronics; and to promote job creation through increased investment in Europe.

The creation of a single EC market certainly has the potential for many positive gains. However, the 1992 effort has also raised concerns as to whether the political and economic tradeoffs involved in that effort may result in increased barriers to non-EC companies' access to that market and/or increased pressures on non-EC companies to shift jobs, investment and technology to Europe to maintain their market presence.

One objective of the 1992 effort -- to improve the competitiveness of EC firms -- is nothing new in the electronics area. The EC has a long history of protection and promotion of EC electronics production. Concerns about the European industry's international competitiveness and EC dependence on foreign suppliers in critical information technologies have led to the use of policy tools which have been quite effective in increasing the competitive strength of EC producers. We estimate that over $1 billion/year is spent by the Community on government-subsidized microelectronics research and development and joint manufacturing efforts. These efforts have resulted in, among other accomplishments, a European 1-megabit DRAM capability. These same concerns have also led to European calls for a better "balance" in areas such as semiconductors, as European producers continue to lag foreign producers in share of their own market. The European Electronic Component Manufacturers Association (EECA) has been forthright in calling for subsidies, maintenance of the current tariff level on integrated circuits (ICs), "realistic" duty suspension procedures, "equitable" European origin rules, and similar policy measures aimed at improving the competitive position of European ICs vis-à-vis foreign chips.

In furtherance of its efforts to promote European electronics production, the European Community has erected a number of barriers -- both tariff and nontariff -- to imports. The EC has high tariffs on electronics products compared with the other major electronics-producing nations. For example, while the United States and Japan have eliminated duties on semiconductors and computer parts, the EC maintains tariffs on both -- 14% in the case of semiconductors.

More worrisome than tariffs -- which, although they are a trade barrier, are at least transparent and less distortive than most other forms of protection -- are nontariff barriers. Most of SIA's concerns in connection with 1992 have to do with what appears to be a trend toward increased use by the EC of non-transparent, non-tariff means to achieve policy objectives related to protection and promotion of European electronics industries.

This apparent trend has begun to manifest itself recently in the form of a number of initiatives which on their face may not seem to be objectionable -- many can be justified for non-protectionist reasons -- but which in their operation, or in their <u>interaction with other measures</u>, have had the effect (intended or not) of imposing competitive disadvantages on non-EC companies.

For example, on February 2, the EC adopted a new rule of origin for integrated circuits (ICs) under which the origin of the semiconductor is to be determined by the location of "diffusion" operations (wafer fabrication). Therefore, to

obtain EC origin, a semiconductor will now have to contain a die (the silicon "chip" itself) fabricated in the EC. Prior to this change, assembly operations in the EC sufficed to bestow EC status on ICs. This change in the EC's rule of origin for integrated circuits makes it more difficult for foreign-based companies to obtain EC origin for their products. Other restrictions require (or are interpreted, correctly or incorrectly, to require) a specified percentage of "EC content," the effect of which is to create disincentives to buy semiconductor components from non-EC suppliers -- unless they have sufficient investment in the EC to achieve EC origin for their products.

Of particular concern are situations where restrictive measures (e.g., local content rules imposed in connection with quotas, procurement preferences, etc.) are applied to end products containing semiconductors. Such rules may appear innocuous in isolation, but in combination, they can and do operate to create incentives for downstream product manufacturers to buy European, rather than non-EC origin, components. A number of such restrictions currently exist, both at the national level and at the Community level. At the national level, examples of such restrictions include quotas imposed by several countries, including Italy and France, on imports of Japanese automobiles that contain more than a certain percentage of foreign content. There are reports that such quotas may also be imposed at the Community level. The fact that these quotas are being administered to require certain minimum levels of EC content (80% in France) to escape the quotas has an impact on U.S. suppliers of semiconductors, for whom the rapidly growing automobile end-use market is a very important market. The automotive semiconductor market in Europe was about $591 million -- approximately 7% of the total European semiconductor market -- in 1988. Clearly, restrictions that create incentives for manufacturers to purchase European semiconductors in place of U.S. semiconductors to avoid automobile quotas put U.S. companies at a competitive disadvantage.

At the Community level, such restrictions include special origin rules for a number of consumer electronics products which require a minimum percentage of EC content for the product to obtain EC origin (e.g., 45% for radio and TV receivers and tape recorders). Similar rules are being considered for VCRs and photocopiers. These EC content rules become important when combined with quotas, high tariffs, screwdriver assembly dumping duties or other restrictions on these downstream products, because a manufacturer can escape such restrictions by adding more EC content to its product. Again, this creates incentives for producers of these goods to replace U.S. components with EC-origin parts.

We have received reports that an EC content requirement is effectively being applied in certain dumping cases involving assembly in Europe through the EC's "screwdriver assembly" regulation. The purpose of the screwdriver assembly regulation is to avoid circumvention of antidumping duties through establishment of low-value-added assembly operations in the Community. However, problems have arisen with the way the rule apparently is being applied in combination with other EC content requirements on subassemblies to create pressure to include certain minimum amounts of EC content in the EC-assembled product. This result is not required by the screwdriver assembly rule itself and is contrary to GATT principles. The practical result, however, is that several U.S. companies have already been dropped by Japanese customers in favor of EC sources. Semiconductor vendors are also now being asked to disclose the location of diffusion operations in sales proposals, as

well as to indicate what their future plans are to "Europeanize" their product lines.

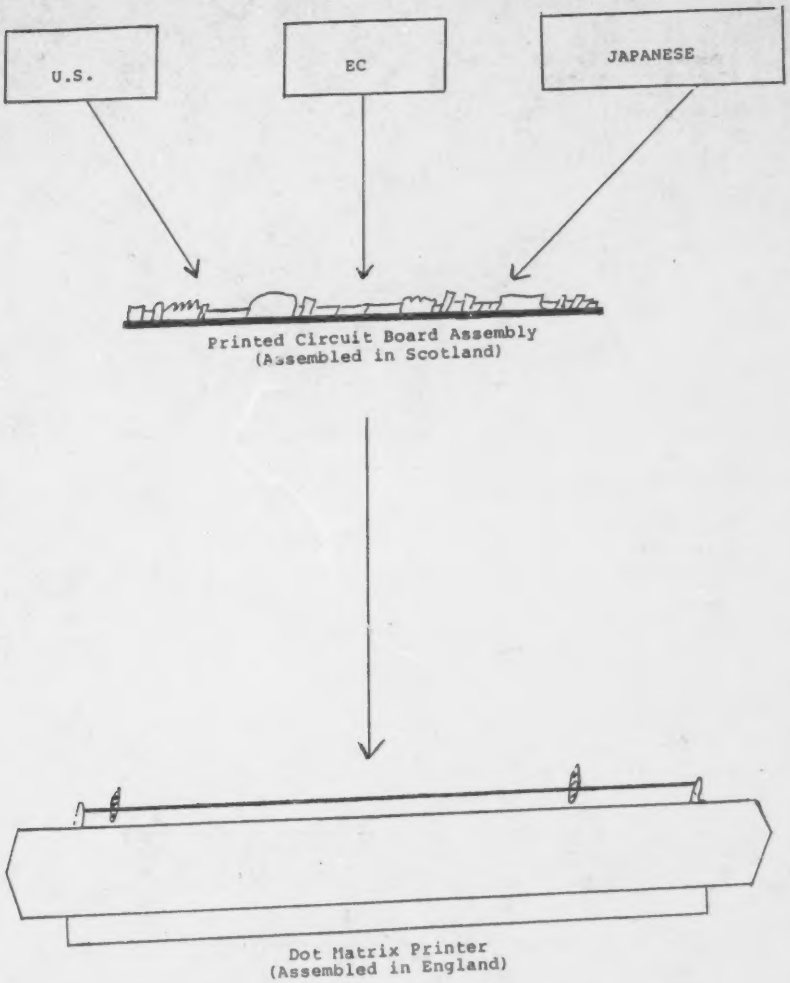
A recent example will illustrate the problem. A Japanese printer manufacturer told its U.S. supplier that to avoid dumping duties on its printers assembled in Europe under the EC's "screwdriver assembly" regulation, it must "design out" U.S. semiconductors so that boards going into its printers will count as EC-origin rather than Japanese origin. To obtain European origin for the boards, Japanese manufacturers are apparently being told that there must be at least 45% European content in the boards. By replacing U.S. chips with European chips, the European content of the boards can be raised to 45%, and the Japanese manufacturer thereby increases its total non-Japanese content in the finished product to over 40% and avoids the "screwdriver" dumping duty. (See example attached.) Note that this is accomplished without actually reducing the number of Japanese parts -- Japanese content levels are maintained as U.S. chips are replaced with European chips. The loser in this equation, obviously, is the U.S. supplier.

We are concerned that there will be an increasing number of restrictions such as those I have described, with adverse consequences for U.S. exports, in connection with the entire "Europe 1992" initiative. There is a proposed EC directive on telecommunications procurement which would establish preferences for products containing 50% or more EC content (and permit discrimination against products that do not). Furthermore, there are various other EC initiatives that appear to be shaping up more as "industrial policy" measures (i.e., measures intended to force investment in Europe or promote EC industry at the expense of non-EC companies) than market-liberalizing measures.

In conclusion, what many U.S. companies see occurring -- and sales have already been lost -- as a result of these recent initiatives, is the prospect of a domestic content/manufacturing requirement for electronics products sold in Europe. A domestic content policy -- which both the EC Commission and the U.S. government are on record as opposing -- would put pressure on U.S. companies to increase significantly their manufacturing investments and technology transfers to the EC, regardless of whether competitive considerations would support such decisions, in the face of discrimination against their products if they do not. U.S. companies would feel forced to respond by transferring jobs, technology and investments to Europe. Those decisions would have important adverse implications for the U.S. economy and the U.S. industry's global competitiveness.

While it may be premature at this juncture to conclude that a "Fortress Europe" is being built in the electronics sector, the trend is not promising -- we cannot afford to let it happen. Close scrutiny and further analysis of these developments is clearly warranted. We intend to keep a watchful eye on regulatory developments in Europe and urge you in Congress to do the same.

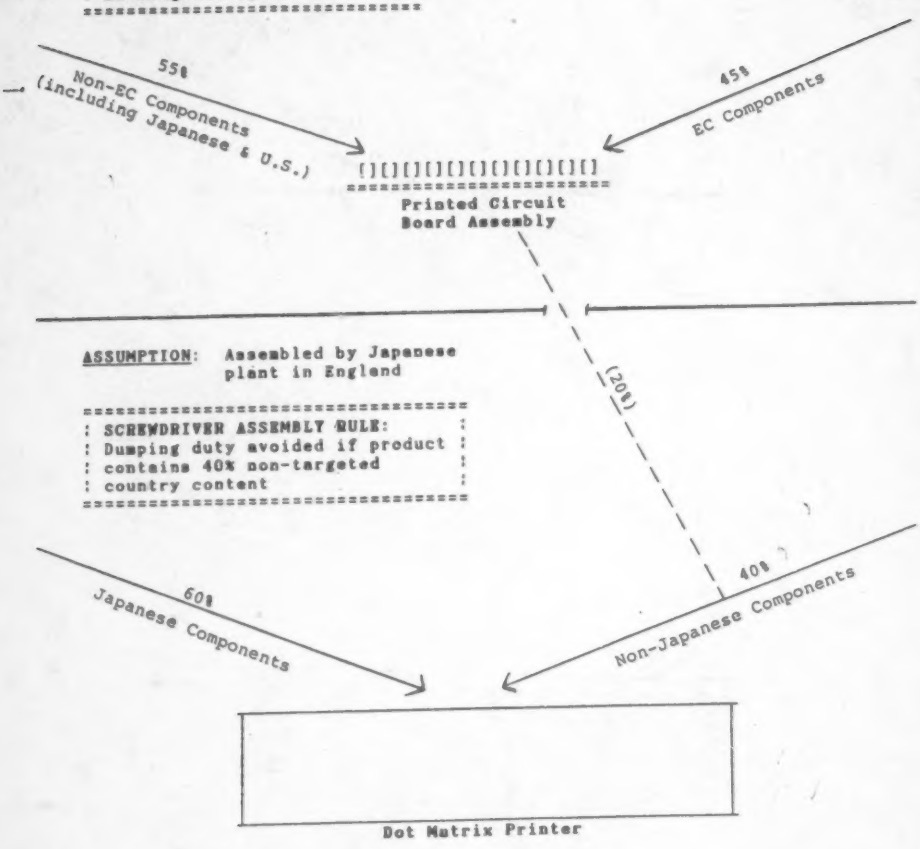
CONTENT FLOW



LOCAL CONTENT OVERLAY

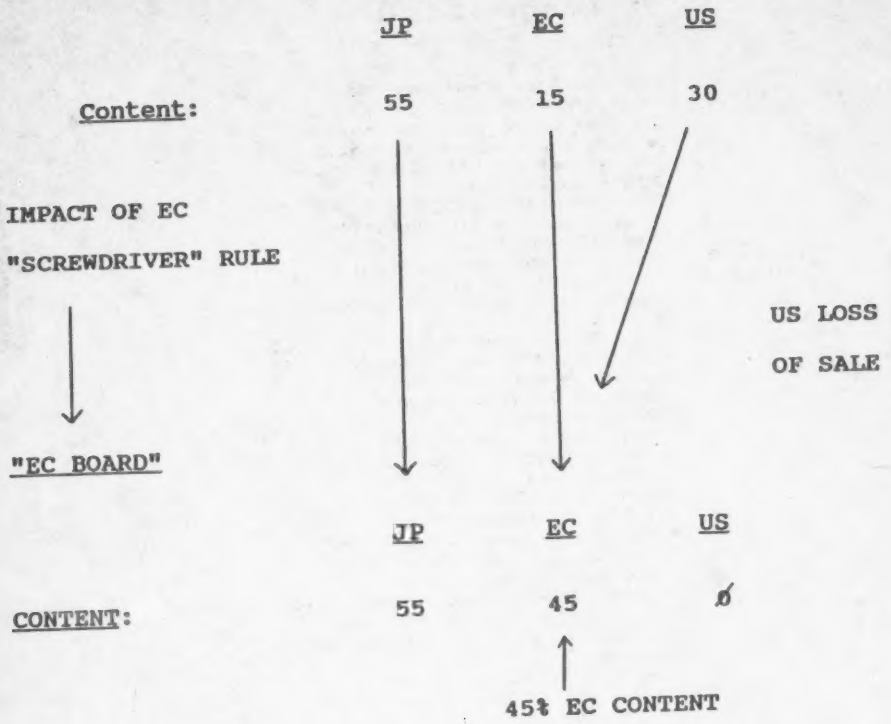
ASSUMPTION: Assembled by subcontract vendor in Scotland engaged by Japanese company

COMMUNITY SAFEGUARD RULE:
If product contains 45% EC content, it is considered EC originating



U.S. CASE STUDY:

"JAPANESE BOARD"



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SIA MEMBER COMPANIES

Advanced Micro Devices, Inc.
AT&T Technologies, Inc.
  Electronic Components Division
Bendix Microelectronics Center
Cherry Semiconductor Corporation
Cirrus Logic, Inc.
Coors Components, Inc.
Digital Equipment Corporation
Ford Microelectronics, Inc.
General Electric Company
  Solid State Division
General Semiconductor Industries, Inc.
GigaBit Logic, Inc.
Gould Inc. - Semiconductor Division
Harris Corporation - Semiconductor Sector
Hewlett-Packard Company -
  Systems Program Planning
IBM Corporation
Intel Corporation
International Rectifier Corporation
Lansdale Semiconductor, Inc.
Linear Technology Corporation
LSI Logic Corporation
MemTech Technology Corporation
Motorola, Inc. - Semiconductor
  Products Sector
National Semiconductor Corporation
NCR Microelectronics Division
Northern Telecom Electronics Inc.
Powerex, Inc.
Precision Monolithics, Inc.
Raytheon Company - Semiconductor
  Division
Rockwell International Corporation
  Semiconductor Products Division
Silicon Systems, Inc.
Sprague Electric Company
Texas Instruments, Inc. -
  Semiconductor Group
TriQuint Semiconductor, Inc.
United Technologies Corporation -
  Microelectronics Center
VLSI Technology, Inc.
Xilinx, Inc.
Zilog, Inc.

DIFFERENCES IN U.S. AND EC TARIFF TREATMENT OF ELECTRONICS PRODUCTS

Tariffs	U.S.	EC
Components:		
– Semiconductors	Duty–free	14% (Duty Suspensions)
– Wafers	Duty–free	9%
– S/C Parts	Duty–free	5.8%
– Computer Parts	Duty–free	4%
Completed peripherals:	3.7%	4% or 4.9%
Computers:	3.9%	4.9%

OPINIONS

• EDITORIAL

A Dangerous Beginning

A recent European Community ruling that will slap a 14 percent duty on greater numbers of semiconductors imported into the EC by systems manufacturers must be repealed.

The semiconductor content of computers accounts for up to 40 percent of a system's overall cost. Those numbers would translate into a significant premium on the prices of systems using chips made outside the EC.

Under the ruling, the etching of silicon must take place in the EC to avoid the penalty. Previously, any component assembled and tested within the EC was judged to be EC-made and therefore duty-free.

The action is unfortunate since it will likely drive up the cost of selling products in Europe. That is almost certainly going to be passed to European customers.

In the short term, the change is going to cause a run on chips that qualify as EC-made. But local chip production will not meet demand. In the semiconductor business, according to Dataquest Inc., European producers supply 38 percent of the local demand. In the dynamic memory chip arena, that percentage drops to 17.

The cost of moving the etching phase of component production is high. The process is complex and time-consuming. A new fabrication plant carries price tags between $100 million and $400 million. What does the EC hope to achieve with this tariff? A wave of chip plant construction? Retaliatory tariffs? An artificially inflated pricing floor for EC-made semiconductors?

The European Community, as it prepares for 1992, is in flux. Foreign competitors by nature are going to be cautious about making the right investments in Europe.

The latest EC move will make it less likely that computer or semiconductor companies will consider Europe a stable environment—one in which they are anxious to invest millions of dollars for fabrication facilities.

Two weeks ago, an official of the U.S. Trade Representative's office said, "The U.S. has to look at this and decide if it's a problem."

We hope the USTR can decide quickly.

The elimination of tariffs would benefit both European and overseas companies, while the most recent redefinition of dutiable products might actually backfire.

In its current state, Europe's tariff schedule favors companies that export assembled computers to the EC: They face only a 4.9 percent tariff. That is certainly strong incentive for non-European vendors to export fully assembled systems.

But as 1992 approaches, the latest tariff may be a signal that even those incentives may someday be quashed. Such protectionism at worst has led to outright trade war and at best hits paying consumers hardest.

We encourage the Computer and Business Equipment Manufacturers Association in its attempt to eliminate the EC semiconductor duty.

The Financial Times January 9, 1989

US and Japanese chip makers face pressure to build in EC

By William Dawkins in Brussels

WIDE-RANGING rules on how integrated circuits should obtain free market access in the European Community are due to be adopted by the Brussels Commission within the next month.

They will put severe pressure on dominant US and Japanese chip producers to build plants in the EC which would make microcircuits for sale there from scratch, a move which will demand enormous investment.

Currently, most US and Japanese microelectronics companies merely assemble finished circuits in Europe from imported wafers. They prefer to perform the process of forming circuits on semiconductor wafers, known as diffusion, at their foreign headquarters. This is most sophisticated and costly part of chip-making and needs plant costing at least Y30bn ($2.1m), according to Japanese industry estimates.

The EC rules stipulate that diffusion – rather than just assembly – must take place in the Community if an integrated circuit is to get free circulation in the 12 states.

This is a victory for European electronics companies, which have lobbied the Commission for six years to launch this regulation. They think it could provide help in regaining market share taken by Japanese semiconductors, which are currently being investigated in a separate move for alleged EC dumping.

The scheme would end the present highly uncertain situation where no electronics company is sure what it has to do to obtain EC origin for chips. It would, for instance, help the growing number of European-based companies which are carrying out diffusion in the EC and exporting wafers for assembly in low-wage countries in South-East Asia, for subsequent resale in the West.

"The logical development will be the installation of diffusion processes by the major Japanese semiconductor companies in the EC . . . The capital involved will be tremendous," said Mr Takao Negishi, European Representative for the Japanese Electronics Industry Association.

The regulation was cleared by national customs experts before Christmas and now awaits translation into the EC's official languages and final adoption by the Brussels authorities before it can take legal effect.

Once adopted, it will be of great importance to companies supplying semiconductor components for products subject to bilateral quotas, such as Japanese televisions in France. It will also be critical for deciding the origin of EC-assembled electronics products, incorporating chips, subject to the local content criteria of the Commission's anti-dumping regulations.

FINANCIAL TIMES THURSDAY MARCH 2 1989

Intel studies feasibility of manufacturing in Europe

By Terry Dodsworth, Industrial Editor

INTEL, the Californian semiconductor company, is examining the feasibility of manufacturing in Europe following the European Commission's controversial ruling on local content requirements.

The company stresses it is not as yet examining sites for a European facility. But Mr Sean Maloney, UK regional manager, says Intel is closely examining the initiatives coming out of Brussels to see how they will affect its business.

Intel, a pioneer in microprocessor development, stands out among the leading US semiconductor companies for its cautious approach to overseas investment.

The company does not have a manufacturing or assembly facility in western Europe, and only a year ago Mr Andy Grove, its president, said in London it was against such an investment because of the costs involved.

The local content issue has come to a head over the past few weeks because of a recent Commission ruling. This defines a European-made chip as one that has gone through the diffusion process – the most critical step in the manufacturing operation – within the EC.

The importance of this ruling is to place pressure on chip users to buy from suppliers who diffuse in Europe.

This is particularly true for a variety of Japanese electronics equipment manufacturers, which can only meet anti-dumping requirements if they purchase a large proportion of their components in the region.

Following the EC action, several of the top Japanese chip producers have begun to look for sites to set up diffusion plants in the Community.

Intel, however, is faced with a particularly difficult decision because microprocessor plants require heavier investment than standard memory or logic chip facilities.

Its most up-to-date plant, at Albuquerque in New Mexico, cost $350m, against around $100m for lower technology facilities.

At the same time, Intel is one of the world's leading producers of specialist Eprom memory chips, which cannot be made alongside microprocessors. Under the EC rules, the company would therefore need to set up two facilities to qualify for the local content requirements for both categories of chips.

Mr Maloney emphasises that the way in which the European initiatives will be applied is still far from clear. At the moment, he says, the company's customers are happy with their supplies from Intel, but he concedes that this could change.

Intel also has a strong position to defend in western Europe. As the designer of the key microprocessor for International Business Machines' personal computers, it has carved out a broadly-based market in the region, where it generates sales of about $900m and employs approximately 1,000.

EUROPE

THE EUROPEANS START TO PLAY A LITTLE ROUGH

Harsh antidumping proposals are raising hackles in Tokyo

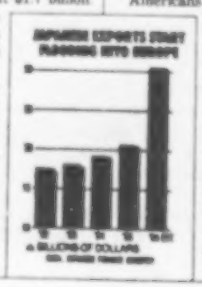
Europe is giving its trade fight with Japan a new twist—one that could have important consequences for the U. S. The 12-nation European Community is threatening to crack down on Asian-owned "screwdriver operations." These factories, in Europe and the U. S. alike, do little more than assemble Asian-made parts into finished products. Now, under heavy pressure from major European companies, the EC is considering a provision to extend antidumping duties to parts as well as products.

According to a confidential document prepared by EC staff members, the Europeans are proposing to beef up their local-content requirements. To avoid duties, Asian companies would be forced to buy higher percentages of European components. This would provide jobs and ease the pressure on European competitors, particularly in electronics. "The position of the European electronics industry is that if the Japanese want to come to Europe, fine—but only if they really manufacture here," says Jean Caillot, a Thomson executive and president of the Electronic Industries Assn.

SABER RATTLING. Japanese and South Korean companies worry that the EC parts proposal may also catch on in the U. S., where Congress and the Administration are expected to enact a major trade bill. To stop the European proposal, the Asians are bringing out the heavy artillery. Even though it is still an internal EC document, Keidanren, the powerful association of Japanese companies, fired off a public letter—signed by Sony Corp. Chairman Akio Morita—to the EC in protest. Usually cautious Keidanren officials in Tokyo are making veiled threats that Japanese companies will cut back their soaring manufacturing investment in Europe, now about $1.7 billion. Korea's Samsung group also threatens to cancel a $25 million microwave oven plant in Britain.

The proposed action on parts reflects the tougher tone that Europe is taking because of a sharp increase in Japanese exports (chart). European companies, including the Netherlands' Philips, France's Thomson, and Italy's Olivetti, have launched a wave of new dumping complaints. On Dec. 18 the EC started investigating alleged dumping of Japanese and Korean microwave ovens. In coming weeks the EC is expected to raise antidumping duties on Japanese copiers to 20%. Semiconductors, computer printers, and compact-disk players are next.

But the crackdown on assembly operations is more worrisome, partly because it might spread to the U. S. Some American officials complain that Japanese companies avoid dumping penalties by simply importing products in pieces and assembling them in the U. S. These officials are working on proposals similar to the EC document. One trade source says the Administration definitely will include an anti-"screwdriver" provision in its trade proposal this year.



Americans will be watching to see if Europe makes its threats stick. "This is saber rattling on the part of the Europeans," contends Jean-Pierre Lehmann, a Japan expert at INSEAD, a business school in Fontainebleau. For one thing, individual European countries are battling one another to attract Asian investment. The EC already has a rule of thumb that foreign-owned plants provide at least 45% local content, but Britain and France are notorious for allowing in plants that do not meet that requirement.

If the Europeans do crack down on "screwdriver" operations, the Japanese are not likely to halt investment altogether. A more probable response would be to accelerate the arrival of Japanese parts makers, helping big Japanese manufacturers buy Japanese parts in Europe without fear of trade sanctions. But Britain, West Germany, and France would not necessarily benefit. Experts predict the Japanese would build these plants in such low-cost areas as Spain, Portugal, and Ireland.

One other Japanese response could be more corporate partnerships—which, theoretically, give Japanese companies a European friend when the trade weather gets stormy. In late January, for example, Olivetti signed a joint venture with Japan's Canon Inc. to make copiers, printers, and facsimile machines in Italy. In practice, however, the pressure for antidumping action is not likely to let up. Without action, businessmen fear European consumer electronics will be devastated—as the U. S. industry was in the 1970s. "We're still going to fight Japanese companies that are dumping in Europe," says Elserino Piol, an Olivetti executive vice-president.

The EC is trying to play down the tensions with Japan. Officials in Brussels "are furious" that the confidential document leaked out, says one trade lawyer. But the document has already been circulated to EC member countries and has found considerable support. Predicts the lawyer: "It will almost certainly be approved. It's only a matter of timing."

By Thane Peterson in Paris with Joyce Hazard in Brussels, Amy Borrus in Tokyo, and Bill Javetski in Washington

February 28, 1989

Volume 2, No. 1

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U.S. Representative to the European Communities

LETTER FROM BRUSSELS

WITHHOLDING TAX ON INTEREST INCOME

The European Commission unveiled on February 8 controversial new proposals for a harmonized, EC-wide withholding tax on interest income. The key elements were: a) a minimum withholding tax of 15 percent; and b) a mechanism to improve the exchange of information among member state tax authorities where there is a clear presumption of fraud. The tax would not be required when there is a system of automatic reporting from the banks to the national tax authorities.

To prevent the flight of capital away from the Community, EC member states would be allowed to grant exemptions for Eurobonds and non-EC residents. The new system would replace the current structure of member state tax rates (some withholding, some not) ranging from zero to 35 percent, and would come into effect on July 1, 1990 — the projected date for the complete liberalization of capital movements within the Community.

These proposals have already generated heated opposition from low-tax countries such as the UK, Luxembourg and Germany. Since unanimity is required for any Council decision involving taxes, it is virtually certain that the new tax will never see the light of day.

PHARMACEUTICALS

The Commission, in consultation with consumer and industry groups, is developing a proposal for central registration of human and animal pharmaceutical products. The major issue is whether there should be a central EC agency, like the U.S. Food and Drug Administration, or a system of "essential standards" and "mutual recognition" of EC member state product registration, or possibly a mix of both systems.

The 1985 White Paper plan for thirteen measures in the pharmaceutical sector is virtually complete. It includes provisions for multistate marketing authorization, improved patent protection for biotech and high-tech pharmaceutical products, and increased EC regulation of biological products, vaccines, blood products and radio-pharmaceuticals.

Beyond "1992", however, the Community will have to resolve major questions of price harmonization, patent term restoration, and product liability.

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RULES OF ORIGIN

Anti-dumping

Integrated Circuits

Automobiles

"Rules of Origin" have emerged as an important tool increasingly used by the Commission to pursue specific trade and economic objectives. One example concerns the application of origin rules to "screwdriver" (assembly) operations allegedly set up to circumvent EC antidumping duties on products such as photocopiers and printers.

The EC is carefully scrutinizing the operations of companies subject to antidumping duties set up in other countries, including EC member states. The effort is aimed at ensuring that such companies are not able to circumvent the antidumping duties through simple assembly operations. However, since there is no single EC rule of origin with a general application in these situations, considerable uncertainty has been created.

The EC actions have affected one U.S. photocopying company directly, because the Commission is proposing a regulation that says the product it manufactures in the United States (which includes parts from Japan) is still a Japanese product. If this regulation is adopted, the U.S. company would have antidumping duties applied to the full value of its product exported to the EC. However, if the assembly had taken place in the EC, the antidumping duties would be applied only to the Japanese content of the final product.

The Community is also beginning to re-define the degree of processing required in Europe in order for a product to be considered "European", and therefore eligible for free circulation within Europe. On February 3, the Commission adopted a regulation stating that, in order for an integrated circuit to be considered "European", the process of "diffusion" (transferring memory onto a silicone wafer) must be carried out in Europe. Mere assembly or testing will no longer suffice. This decision will undoubtedly affect the nature of future investments in this sector in Europe by forcing investors to carry out most of the manufacturing process of integrated circuits in Europe. It may also affect sourcing patterns to the extent that local (European) content requirements exist or are put in place for products containing integrated circuits.

While several U.S. manufacturers already have comprehensive operations in Europe, others with more limited European operations or those who export directly from the United States could be adversely affected should local content requirements come into play. The EC decision on integrated circuits puts Japanese manufacturers (who are now the subject of antidumping investigations) on notice as to the type of operation they would have to set up in Europe in order to avoid the application of antidumping measures to operations they may be considering in Europe.

The Commission is continuing to look at the question of how to define a "European" car. While this definition is reputedly aimed at the Japanese, it could take the form of mandating a certain high percentage of European content which could have adverse consequences for all non-European suppliers of parts including Americans. The Commission will also have to decide how to treat cars manufactured by Japanese companies in third countries like the United States. If they are still considered to be "Japanese" and Europe continues to maintain formal or informal quotas on Japanese cars, the prospects for exporting such cars to Europe could be greatly diminished.

FORTY TWO YEARS AFTER GATT WAS SIGNED:

WORLDWIDE TARIFFS ON INTEGRATED CIRCUITS 1989*

Country	Official IC Tariff	Comments
ARGENTINA	5% (Hybrids:43-65%)	VAT 15% MISC.TAXES=6%
AUSTRALIA	2%	
AUSTRIA		
BRAZIL	40-55%	
CANADA	0% (Considering 9% VAT)	US-JAPAN-CANADA IC PACT
CHILE	15%	
CHINA	6% (LSI) 20% (OTHERS)	
COLUMBIA		
EC	14%	PLUS 6% VAT
FINLAND		
HONG KONG	0%	
INDIA	100% (150% on electronic parts)	
INDONESIA	0%	10% VAT
ISRAEL	0%	US-ISRAEL FREE TRADE PACT
JAPAN	0% 3% VAT	US-JAPAN-CANADA IC PACT
MALAYSIA	2% on ICs - 5% on IC parts	
MEXICO	5-15% (Hybrids:10-40%)	
NEW ZEALAND	5%	
NORWAY	1 KRONER/IC	20% VAT
PHILIPPINES	10-30%	10% VAT
SINGAPORE	0%	
SOUTH AFRICA	0-5%	
SOUTH KOREA	20% (Temporary Rate: 10%)	
SPAIN	19.9%	Goes to EC level 1993
SWEDEN	2.5%	23.5% VAT
SWITZERLAND	50 FRANCS/100 KG. GROSS	
TAIWAN	20%	
THAILAND	25-35%	
TURKEY		
USA	0%	US-JAPAN-CANADA IC PACT
VENEZUELA	1% w/5% Surcharge on ICs	

*Source: US Department of Commerce

STATEMENT OF CHRISTOPHER M. BATES, DIRECTOR, POLICY ANALYSIS, MOTOR & EQUIPMENT MANUFACTURERS ASSOCIATION

Chairman GIBBONS. All right, fine. Well, Mr. Bates?

Mr. BATES. Thank you, Mr. Chairman.

Good afternoon. We appreciate the opportunity to testify before you regarding the likely impact of Europe 1992 on the motor vehicle parts manufacturing industry and to give you a bit of an idea of the actions we are taking in response.

The EC is the third largest customer of the United States parts industry after Canada and Mexico, with purchases of approximately $1.4 billion in 1988. Imports of such products by the United States from the European Community in contrast are now growing more slowly than in past years. However, in contrast to some of the other industries represented here today, we are running a $2 billion deficit rather than a surplus.

U.S. parts makers have a substantial investment stake in the European Community totaling into the billions of dollars. So we have a very important stake in the outcome of the Europe 1992 process and are determined that there should not be additional trading or investment restrictions levied against us.

U.S. parts manufacturers have mixed views at this point, I think, on many implications of EC 1992 for the industry and themselves. Most of them that have significant export business in the Community, already have established sales networks or are manufacturing there are, I would say, guardedly optimistic about what the future holds.

This view is not often shared with the companies whose primary access to the market is through exports and who are in the early stages of developing extensive marketing networks in the European Community.

I would say that our industry has three basic concerns which I will summarize for you. First, that the European Community's auto policy, while ostensibly aimed at restricting the Japanese in Europe, will indirectly harm U.S. exports interests.

Second, that harmonization of EC industrial standards and certification systems may well facilitate internal EC trade, but will not do very much for countries which are not party to the EC arrangement.

Third, that European parts manufacturers will become more competitive regionally as well as internationally due to the Europe 1992 process. The latter concern is more of one which says to us that we need not to concern ourselves only with what happens within the Community, but also to look at what we are doing at home and in other markets to become as competitive as possible. If the integration process goes as planned, there are going to be a lot more strong European competitors.

I would like to focus really on two areas of EC regulations which we think are going to have the most dramatic impact. While the specific terms of future EC auto industry policy are still under discussion as outlined today, the general direction of the policy is clear, I think.

The EC will negotiate or attempt very strongly to negotiate a regional export restraint with the Japanese Government to replace the current system of informal and formal restrictive measures.

These EC-wide restraints, we believe, will be set at a level that will be sufficient to restrain imports from Japan to no more than current levels in countries such as the United Kingdom and West Germany, where they are in the 10 to 12 up to 15 percent range. That is probably the best we can expect.

The time frame in which these restraints are likely to remain in place have been left up in the air. There have been some discussions that they will remain in place until the European Community's exports to Japan reach at least half of the level of Japanese exports to the European Community.

The second area within the trade policy arena is an intent to encourage Japanese assemblers entering Europe to make substantial use of local suppliers, essentially the issue discussed by these gentlemen earlier.

Our concern is with the stringency of the rules. Rules of origin are necessary, but should not be set at such a high level that they begin to impinge on the ability of third country producers to maintain, much less increase, their levels of exports to the Community.

We believe that these policies, if fully implemented, will put severe pressure on United States as well as Japanese and other third country suppliers to establish or expand their manufacturing presence in Europe, whether directly or through some type of strategic alliance.

A number of large and mid-size firms in our industry are proceeding along this road, joining companies which are already based there and have been for a number of years.

On the positive side, based in part on the recent experience we have had in North America, some of these U.S. companies who go abroad may be in a relatively strong position to capture business with Japanese affiliates in Europe. That may become significant business over time.

On the negative side, though, and I think at this point the concerns outweigh the expected benefits. There is a possibility, one, for diversion of some Japanese vehicle exports to non-EC markets, including the United States.

Second, there is a possibility for discouragement of large-scale imports of United States built, Japanese design vehicles. Third, there are likely to be reduced opportunities for U.S. parts exports if the EC rule of origin requirements are set at the levels which I alluded to before in the neighborhood of 75 to 80 percent.

I would like to move now to the EC standards area. As mentioned earlier, there are regional standards bodies seeking to harmonize member country standards for industrial products based on a concept of essential requirements rather than detailed design standards.

The EC, to date, has pledged to make use of international standards such as those developed by ISO wherever they are available and, roughly, appropriate to the situation at hand.

Our concern, though, is that this gives the EC considerable latitude, particularly when you have a process which lacks transparency. CEN and CENELAC, regional standards development bodies in

the EC, also are drafting a proposal on what the testing and certification regime should look like under a unified market structure.

The intent, as we understand it, is to develop a situation of third-party testing as a compliment to manufacturers' own internal quality assurance program and testing and self-certification efforts. That approach offers a potential, we think, for additional EC regulations on products produced within the Community as well as of those exported to it.

Moreover, we believe that non-EC manufacturers still do not have adequate access to the EC standards development process, which is far less open than those used here in the United States by primary standards development groups affecting our industry. MEMA is working with a number of private sector groups to improve U.S. industry's access to the EC standards development process.

We are also working with groups to gain as much information as we can on other areas of the Community's program so we can disseminate this information to our member companies. We are pleased with Commerce Secretary Mosbacher's recently announced support for some type of initiative of the private sector.

We think this is a key area where the United States needs to have a much stronger hands on knowledge of what is going on. We endorse that wholeheartedly.

In conclusion, I think there are a much larger number of firms in our industry today, than even 6 months ago, which are looking at what EC 1992 could mean to them. We are devoting a lot of resources toward helping our members get access to the information they need to conduct those types of studies.

I think it is important to remember that EC implementation of directives, either already authored or about to come out, may vary significantly from the stated intent, or even the language of the original directive. There is a lot of room for changes in approach as they move into the implementation stage.

We are particularly concerned about the prospects for U.S. exporters. We think that some of the points made earlier today by other panels about a possible divergence of interest between companies well established in the EC and those trying to become so, is important to keep at the forefront of the discussion.

Thank you very much.

I would be happy to answer any questions.

[The statement of Mr. Bates follows:]

MOTOR & EQUIPMENT MANUFACTURERS ASSOCIATION

PREPARED STATEMENT REGARDING THE IMPACT OF "EUROPE 1992" ON THE MOTOR VEHICLE PARTS MANUFACTURING INDUSTRY

Submitted to the

HOUSE WAYS & MEANS COMMITTEE, SUBCOMMITTEE ON TRADE

March 20, 1989

The Motor and Equipment Manufacturers Association (MEMA) appreciates the opportunity to present its views to the House Subcommittee on Trade regarding the impact of "Europe 1992" on the motor vehicle parts manufacturing industry.

Founded in 1904, MEMA is the oldest trade association in the U.S. automotive industry. It is the only association devoted exclusively to representing and serving the needs of U.S. manufacturers of motor vehicle parts, accessories, and allied products.

The European Community (EC) is the third largest U.S. export market for motor vehicle parts after Canada and Mexico, with purchases rising from $.9 billion in 1987 to $1.4 billion last year. The percentage increase in U.S. exports to every EC country except Greece and Italy was greater than the 20% gain in total U.S. exports of motor vehicle parts from 1987 to 1988.

The United States, however, continues to run a $2 billion deficit with the EC in motor vehicle parts trade, although there was a slight decline in this defict last year. U.S. parts imports from the EC reached $3.6 billion in 1988, up from $3.3 billion in 1987. Thus, two-way U.S.-EC trade in motor vehicle parts is substantial, and the trend has begun to reflect the growing competitiveness of U.S. exporters due in part to favorable exchange rate shifts.

U.S. parts makers also have a large and growing direct investment position in Europe. Reliable data on the total book value of such investments is not available. However, survey data from the International Trade Commission's 1987 study of the industry show that annual capital expenditures by subsidiaries and affiliates of U.S. parts manufacturers in the 4 largest EC countries increased from $84 million in 1982 to over $200 million in 1986.

As these data show, our industry has a very important stake in ensuring that Europe remains a healthy market for U.S. exports, and that new trade or investment barriers are not erected.

U.S. parts manufacturers have somewhat mixed views on the implications of "Europe 1992" for their businesses. Most firms with experience as exporters or producers in Europe are guardedly optimistic that further EC market integration will promote a healthier European economy and lead to new market opportunities. This view is often not shared by companies which lack manufacturing operations or a strong distribution and sales network in the EC.

There is widespread concern that U.S. parts exporters will encounter greater difficulties in selling to the EC in the 1990s. These concerns are based on:

1) expectations that EC auto policy, while aimed at restricting market penetration by Japanese producers and their local affiliates, will indirectly harm U.S. export interests;

2) the belief that harmonization of EC industrial standards and testing/certification policies will facilitate internal EC trade, but discourage imports from non-member countries such as the United States;

3) the likelihood that European parts manufacturers will become vastly more competitive regionally, as well as internationally, due to the "Europe 1992" process.

There are several areas of EC regulation or policy which our industry is now monitoring closely as part of their strategic planning activities. These include: EC auto industry trade policy; EC technical standardization, testing and certification policies; customs and other border regulations; and competition (antitrust, merger and acquisition, and product liability) policies. The balance of this testimony focuses on the first two, which have proven to be most controversial.

EC Auto Industry Trade Policy

While the specific terms of future EC auto industry trade policy are still under discussion, the general direction of this policy is clear.

-- The EC will negotiate a regional export restraint agreement with Japan to replace current national arrangements. These EC-wide restraints will not be removed until EC auto exports to Japan increase to roughly half the level of Japanese exports to the EC.

-- To ensure Japanese assemblers entering Europe make substantial use of local suppliers, the EC will establish stringent rules of origin as a condition for free trade in finished vehicles among member countries.

These policies, if implemented as expected, will put pressure on U.S. as well as Japanese suppliers of original equipment parts to establish or expand their manufacturing presence in Europe, whether directly or through strategic alliances with locally-based manufacturers. A number of large and mid-size U.S. parts makers already have taken such steps to avoid "Fortress Europe" and take advantage of expected growth in regional demand due to internal market liberalization.

On the positive side, new opportunities may emerge for European operations of U.S. companies with experience in selling to Japanese customers in North America. While Japanese vehicle assembly capacity in Europe lags far behind that in North America, a more aggressive Japanese push into Europe can be expected by 1990. Assembly capacity for Japanese-design cars in the EC should reach 500,000 units or more by the early 1990s.

On the negative side, EC automotive trade policy could result in:

1) diversion of some Japanese vehicle exports to non-EC markets, including the United States;

2) discouragement of large-scale imports of U.S.-built, Japanese-design vehicles; and/or

3) reduced opportunities for exports of original equipment parts if EC rule of origin requirements are set at an excessive level (a minimum of up to 80% is under discussion).

Although the EC is not proposing to raise its external tariff on imports from non-member countries, EC tariffs on both vehicles and parts are significant, and are higher on average than U.S. or Japanese tariffs. In conjunction with more stringent rules of origin for automotive products, therefore, such tariffs are likely to discourage imports from the U.S. and other non-EC countries to a greater degree than in the past.

U.S. exports of replacement parts to Europe should not be affected as immediately as exports of original equipment parts by a more stringent EC rule of origin or vehicle import restraint arrangement with Japan. However, since replacement parts sales in Europe are more closely tied to vehicle producers and their original equipment suppliers, some adverse longer term affects could be felt.

Harmonization of EC Standards
and Testing/Certification Policies

Through regional standards bodies (CEN/CENELEC), the EC is seeking to harmonize member country standards for industrial products based on a new concept of "essential requirements," rather than detailed design standards. The EC has pledged to rely upon existing international standards (ISO/IEC) in developing these standards, where feasible. EC members would then be required to accept products exported to them by other member countries which meet these newly defined "essential requirements."

CEN/CENELEC also is drafting a proposal to establish an EC-wide product testing and certification system. The intent is to develop a system of lab accreditation and third-party testing as a complement to manufacturers' own internal quality assurance and testing/self certification programs.

This approach offers the potential for additional EC regulation of products produced within the Community as well as those exported to it. Moreover, non-EC manufacturers do not have adequate access to the EC standards development process, which is far less open and transparent than those used by ANSI, ASTM, and SAE in the United States. Finally, because the "mutual recognition" concept does not appear to include products made outside the EC, U.S. exporters may derive few if any benefits from the new harmonization approach.

For these reasons, MEMA is now working in cooperation with the Commerce Department and other private sector groups to improve U.S. industry's access to the EC standards development process. MEMA is encouraged by recent statements by the directors of CEN and CENELEC regarding their willingness to engage in a constructive dialogue on this issue with experts from the U.S. standards community. Commerce Secretary Mosbacher's announced support for this type of initiative also is a welcome development.

MEMA Activities Regarding "Europe 1992"

Since last year, MEMA has taken an active interest in monitoring the progress of "Europe 1992," analyzing key developments, and reporting findings to members on a regular basis. Analysis of "Europe 1992" issues and related outreach to the U.S. parts manufacturing industry will remain a focal point of MEMA's international program activities in the foreseeable future.

To date MEMA activities in this area have included:

1) close collaboration with the Commerce Department in obtaining and analyzing new Directives of interest to members as they are issued;

2) participation in and information exchanges with various industry standards groups and broad private sector task forces considering the impact of "Europe 1992;" and

3) extensive outreach to U.S. auto parts manufacturers through participation in several industry conferences and direct reports to members.

A growing number of manufacturers in our industry are looking carefully at how "Europe 1992" will affect their market position in Europe. For exporters in particular, however, there are no clear answers regarding appropriate strategies at this stage.

EC implementation of new and planned Directives may vary significantly from stated intent and thus will require careful monitoring by both industry and government. MEMA believes sustained U.S. surveillance of the "Europe 1992" process is therefore essential to protect U.S. interests, particularly with regard to exports.

Chairman GIBBONS. Do you think your Government is doing enough to keep you and your industry close to EC 1992?

Mr. POMEROY. My answer, and I think our association's answer to the question, in the past, yes. They have been attending our meetings, listening to us, we have been listening to them.

I have a serious concern about the future. My concern about the future isn't so much that they will keep us informed as to the importance of international trade in the scheme of things in the Federal Government.

International trade, at least in my opinion, is one of the most important things we have got to be looking at in the future. It affects our national security, it affects literally everything that is going to happen to us in the future.

The fragmented, the different views in the administration, the Commerce Department, the USTR, the State Department, so on, and so forth, the Defense Department gets involved in dealing in export controls, and so forth, gives me some serious concerns strategically about the future.

But, yes, they have been keeping us informed.

Mr. BATES. I think I would share many of those points of view. We have been pleased with the support we have gotten from Government so far and from the other private sector groups looking at the issue. I think we have reached a point in the process where we need to get a little more practical and direct.

We have gone beyond the issue stage, and we need to begin to formulate specific responses. I think this will take a much more involved and complicated effort between Government and private industry.

I am not sure that we have all of the information we need, and I think particularly the standards area is one area where there is a lot of room for private sector and Government cooperation to achieve some very practical ends. I hope to see that emerge.

Mr. MAIBACH. I can answer that two ways. One, I don't think just to say Government should do it.

I think you should ask yourself is the industry energizing Government in making sure it knows what the realities are of EC 1992. In that sense I think we are partners with Government.

If there is any credit or blame, that is ours together. Our industry is briefing our Government, like we are today. But I think there is another part of that answer, which is that you have to look at the partner we have.

In Europe we have 300,000 troops. We have one foreign commercial officer in Brussels. In Japan we have 6,000 troops and six foreign commercial officers.

I think we have to understand commercial competition is very important in this country, and we have to tilt that way in seeing our strategic interest in the world. In that sense I think our partner is outmanned.

Chairman GIBBONS. How about specifically the Brussels office of the USTR or State Department, the Ambassador? Do you all deal with them?

What is your feeling about them?

Mr. POMEROY. I have not directly. Our association is sending a group over there next week. I can't comment on that.

Mr. BATES. The statements earlier today regarding the size and number of people on the ground in Brussels are consistent with my understanding. To date, I don't think that has been a constraining factor.

There is a possibility that it could be in the future. My hope is that there would be enough flexibility built in in terms of staffing that if we discovered there was a problem, something could be done about it.

Mr. MAIBACH. Well, the EEA is sending a trade mission, if you will, at the end of this month and INTEL, and other companies have people on that. We will be working with them.

We always find people at the UST, at Commerce are very talented and dedicated people. My comment would be they need help once an industry identifies problems to have the manpower to deal with that.

Chairman GIBBONS. Each one of you, what is your one big fear in all of this?

Mr. POMEROY. My biggest fear as a country, as a government and a country is that we won't take international trade seriously enough.

Mr. BATES. I think I would echo that. I think we have an opportunity to take some actions in the next 6 months to 1 year. It is a window of opportunity which, if we don't use it, is going to go away.

A lot of processes underway will be so far underway that it will be difficult to influence them in any shape, size or form.

Mr. MAIBACH. I would depict it as a challenge. I don't much care for fears. I think we have a challenge in this country that is very, very important.

I don't know if we are up to it or not. That is the post war, we tried to establish internationalism through GATT and the IMF, et cetera. We tried to have an economic system to work on comparative advantage.

We have a model in the Pacific Japan with government partnership with industry, targets, et cetera that says nationalism, not internationalism, is the way to win. I think people in the world are looking at that and are saying they seem to be very good at that.

I think what is going on in Europe now is they are trying to make a decision are they going to choose internationalism and open that market and compare advantage work or are they going to turn within and say if Japan is going to do that, we are going to do that, too. And you know which market is left for everyone else to compete in, the United States. I think that is the challenge before us, and I think it is a very tough one.

Chairman GIBBONS. I want to thank all of you for helping us with this problem.

This concludes our hearing for today on Europe 1992. We will have more hearings later on in the future to be announced by the Chair.

Thank you very much.

[Whereupon, at 5:17 p.m., the hearing was adjourned.]

98-199 (180)